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Legislative Assembly of Ontario

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 3 May 1993

Journal des débats (Hansard)

Lundi 3 mai 1993

Standing committee on social development

Organization

Comité permanent des affaires sociales

Organisation

Chair: Charles Beer
Clerk: Douglas Arnott

Président : Charles Beer
Greffier : Douglas Arnott



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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 3 May 1993

The committee met at 1546 in room 151.

ELECTION OF CHAIR

Clerk of the Committee (Mr Doug Arnott): Honourable members, it is my duty to call upon you to elect a Chair of the committee. Are there any nominations, please?

Mr Randy R. Hope (Chatham-Kent): I'd like to nominate Mr Beer's name.

Mrs Yvonne O'Neill (Ottawa-Rideau): I'd like to second that, if that's possible.

Clerk of the Committee: Thank you. Are there any further nominations, please? Are there further nominations to the position of Chair? There being no further nominations, I declare nominations closed and Mr Beer duly elected Chair of the committee.

Mr Hope: Boy, what an election.

Mr Derek Fletcher (Guelph): That wasn't as close as the last one.

The Chair (Mr Charles Beer): I'd like to thank all the members for my election as Chair of the committee. I will certainly make every effort to work with all committee members in looking at the various pieces of business that come before us.

ELECTION OF VICE-CHAIR

The Chair: I believe our next duty, Mr Clerk, is then to elect a Vice-Chair. Are there any nominations for Vice-Chair? Ms O'Neill?

Mrs O'Neill: Before I do that, Mr Chair, I'd like to say that I think it's "re-election of Chair" and I think that should be stated in the minutes of the meeting because you have gained our confidence and are being re-elected.

Mr Hope: No, no. Let's not overdo it.

Mrs O'Neill: I'd like to place the name of Mr Ron Eddy for Vice-Chair of the social development committee.

Interjection.

The Chair: Seconded by Mr Hope. Are there any other nominations for Vice-Chair? Hearing none, Mr Ron Eddy is the Vice-Chair of the social development committee. Welcome both to the committee, Mr Eddy, and also to the position of Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair: The next item of business, then, is the appointment of the subcommittee on committee business. For that, as members know, I as the Chair of the committee will chair that and then we would have a representative from each party to sit on that committee.

I believe Mr Eddy is prepared to move a motion. We would need the names of the members from each caucus who would be serving as members of that subcommittee.

Mr Hope: Mr Owens will be serving for the government as the subcommittee member.

The Chair: Okay. Mr Steve Owens will be serving for the government. I believe that Ms O'Neill will be serving for the Liberal caucus and Mr Wilson for the Progressive Conservatives. Mr Eddy, if you would be good enough to move that motion, we can then vote on it, if you would move it in its entirety, please.

Mr Ron Eddy (Brant-Haldimand): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee, that substitution be permitted on the subcommittee, that the presence of all members of the subcommittee is necessary to constitute a meeting and that the subcommittee be composed of the following members: Mr Charles Beer, Chair; Ms Yvonne O'Neill; Mr Jim Wilson; and Mr Steve Owens.

The Chair: All in favour? Opposed? Carried.

COMMITTEE BUSINESS

The Chair: We have received today our first item of business, which will be Bill 4. What I would suggest is that we arrange a meeting of the subcommittee to organize how we'll approach that bill. Perhaps if I could ask each member of the subcommittee to discuss with his colleagues what people would like to see in terms of hearings and precisely what we're going to do, we can have a meeting of the subcommittee, either later this week or at the beginning of next week.

Mr Jim Wilson (Simcoe West): I'm sorry, Mr Chairman; with the chainsaw in the background—

The Chair: Bill 4 today was referred to our committee.

Mr Jim Wilson: What would the full title of Bill 4 be?

The Chair: That's the education omnibus bill. We'll need to work out what we're going to do.

Mr Jim Wilson: I'd like to get off the subcommittee, Mr Chairman.

The Chair: I'm sure there are some members of your caucus who'd like to get on. But if we could speak to the various critics in particular about what it is they would like to do on the committee, I'll arrange with the members of the subcommittee to get together, if not

before the end of this week, at the beginning of next week, so we can plot out exactly what we're going to do. I think we need some direction in terms of witnesses and that kind of thing.

Mrs O'Neill: Do we know that this would be a summer hearing process, or would we be beginning immediately?

The Chair: I believe we would be beginning as soon as possible, but that would require, obviously, discussion.

Mrs O'Neill: So it could begin in June easily.

The Chair: Yes. I believe that the minister has indicated he would like to have the committee begin discussion of the bill as soon as possible, so I think the subcommittee needs to look at just what that means and what witnesses would be called and that kind of issue. We need to consult, as I say, with our critics and with the minister and then proceed, because if it is a matter of bringing in some witnesses, we need some time to get a hold of them. I think the minister or his representative and ministry staff may well be coming before the committee with further information about elements of the bill.

Mr Hope: With that, isn't there currently before this committee some work that still has to be done? I'm wondering what the status of that is. The government bill may be referred to this committee, but depending, I guess, on the subcommittee decision when it's going to be dealt with, there is currently—

The Chair: A government bill takes precedence.

You're quite right that there are a couple of other things on the agenda. In fact, one question I had was that I had thought Bill 94 had been withdrawn and I wasn't quite sure why that was on the list. That was a question I had. I thought it had been withdrawn, but perhaps I could ask the clerk.

Clerk of the Committee: Many items of business referred to committees in the last session were carried over into this session. Bill 94 is one of those bills. The list of business referred to the committee that I sent to you in the House today was taken from today's order paper.

The Chair: Perhaps that's something the subcommittee can look at. I'll organize that as soon as I can give opportunity to members to discuss it with their own critics or minister. Okay?

Mrs O'Neill: Mr Chair, just as Mr Wilson's leaving, it is true that the meetings we've been attending in some parts of this building are like this, that we can hardly hear each other. I think it's going to be important in the hearing process that the clerk verify that we'll be able to hear the witnesses. I'm quite serious about that.

The Chair: I think that's an excellent point. We would not want to sit here for two and a half hours with that in the background. The subcommittee will note that as well.

Without further ado, then, the committee stands adjourned until the next meeting of the committee.

The committee adjourned at 1553.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

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***Vice-Chair / Vice-Président:** Eddy, Ron (Brant-Haldimand L)

*Carter, Jenny (Peterborough ND)

Cunningham, Dianne (London North/-Nord PC)

*Hope, Randy R. (Chatham-Kent ND)

McGuinty, Dalton (Ottawa South/-Sud L)

Martin, Tony (Sault Ste Marie ND)

*O'Connor, Larry (Durham-York ND)

*O'Neill, Yvonne (Ottawa-Rideau L)

*Owens, Stephen (Scarborough Centre ND)

*Rizzo, Tony (Oakwood ND)

*Wilson, Jim (Simcoe West/-Ouest PC)

*In attendance / présents

Substitutions present / Membres remplaçants présents:

Fletcher, Derek (Guelph ND) for Mr Martin

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: Drummond, Alison, research officer, Legislative Research Service



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A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

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Les Armoiries

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 1 June 1993

The committee met at 1623 in room 151.

COMMITTEE BUSINESS

The Vice-Chair (Mr Ron Eddy): Good afternoon, ladies and gentlemen. The standing committee on social development is now in session. The first item of business is organization re Bill 4, An Act to amend certain Acts relating to Education. The subcommittee of this committee met yesterday afternoon but could not reach agreement on several items listed on our agenda having to do with schedule of committee meetings etc. Mr Owens.

Mr Stephen Owens (Scarborough Centre): Thank you, Chair. If I can just—

Interjection: Have some water.

Mr Owens: Hey, that's good water. It's the clean water agency that's already in effect.

Anyway, thank you, Chair. It's my understanding, as I was unable to make yesterday's subcommittee meeting, that in fact no consensus was reached. With that in mind I'd like to put a motion on the floor that we begin the proceedings with respect to Bill 4 on June 7. Would you like me to provide the detail?

The Vice-Chair: That would be helpful. Please continue.

Mr Owens: Then our clerk can organize it into motionese for the purposes of Hansard, I guess, however it flows or doesn't flow.

I'd like to move that we begin the process with respect to Bill 4 on Monday, June 7. We will begin with a statement from either the minister or the parliamentary assistant. It's my understanding that the parliamentary assistant will be making a statement. We'll move into full hearings on June 8. We will continue hearings on June 14 and 15. There is discussion and agreement that we have one night, on either the 14th or the 15th, of evening hearings.

In terms of choosing those dates, I'd like to leave that up to the subcommittee, and in terms of designing the parameters with respect to the time, I'd like to also leave that up to the subcommittee. So the public hearing portion will complete on the 15th, and then we will move into clause-by-clause on June 21 and 22. I move the foregoing as a motion.

The Vice-Chair: Thank you. Discussion, Mr Beer.

Mr Charles Beer (York North): As was noted by Mr Owens, there was no agreement yesterday at the subcommittee with respect to the committee sittings on this bill. I think we had a thorough discussion at subcommittee and I'm not going to belabour the issue.

We thought, as did our colleagues from the third party, that we should conduct our hearings during the intersession period for a number of reasons, most particularly because the omnibus bill does touch on a number of disparate issues, but several of them are critical ones and we wanted to have more time for that discussion. So we will be voting against this motion.

I have a couple of comments, once we've completed this, that I would want to make, but I think at this point, as I said, we had a full discussion of this issue yesterday and would simply note our opposition to this motion once the vote is completed. There are a few other comments that I would like to make with respect to how we proceed and some of the suggestions made by the government whip.

The Vice-Chair: Thank you. Other comments? Mr Arnott.

Mr Ted Arnott (Wellington): I couldn't agree more with Mr Beer's comments. I think it's absolutely essential that this bill be discussed during the summer break. I don't know how we're going to get any opportunity to hear from teachers, for example, who are on the front lines of the education system, who can probably give us the very best advice that this committee will get directly from the teachers of this province, how we're going to be able to get that information if we're debating this bill in the month of June. I think it's absolutely essential that public hearings be in the summertime.

I know that my colleague from London North has brought forward a number of these concerns during the course of the subcommittee meeting. I want to concur with what she has indicated in that subcommittee meeting and would urge the committee to give consideration to that request.

The Vice-Chair: Thank you. Any other comments? We have a motion before us, or a number of motions this time. Is everyone clear on the motion, the dates etc? Any other comments? If not, all in favour? Opposed? Motion carried.

Mr Arnott: On a point of order, Mr Chair: Could we have a recorded vote?

The Vice-Chair: It's been requested. How do we conduct a recorded vote? I'm advised that the recorded vote should be asked before the vote is taken.

Mr Jim Wilson (Simcoe West): Mr Chairman, could we vote again on the same motion?

Mr Owens: No, I don't think so. Come on, Jim, you supported the motion.

Mr Jim Wilson: I just want to get it right.

The Vice-Chair: You indicated that you were voting for it but you withdrew your hand quickly, I noticed.

Mr Jim Wilson: Well, I removed my hand quickly, so which way did you record it?

The Vice-Chair: As a no. It's not a recorded vote, so we have a majority voting in favour of the motion.

Mr Jim Wilson: Which way did you observe it?

Mr Owens: The right way.

1630

The Vice-Chair: The clerk advises me that Mr Wilson's vote was recorded as a negative vote.

Mr Jim Wilson: Thank you, Mr Chair.

Mr Beer: Mr Chairman, just to the issue then, we're going to begin with the ministry on the Monday, and we've agreed then that the Chair and the subcommittee will organize the other deputants. I think I discussed with the member from London North as well as the member from Scarborough Centre that we would look at using one of the evenings of the 14th or 15th, which would be in the middle; that depending on the numbers of groups that come forward, we would sit. I think we need to see if that's necessary, but it would be important to do that.

We also, I think, noted that while the House is supposed to rise on the 24th, if something happens in the interim that suggests that it's going to be here longer, we can look at that in the light of the number of people who've come forward in terms of what we might do. But we would plan on the basis, obviously, of the dates we've discussed, and I think we're prepared to let the Chair and the subcommittee, once they see the number of deputations, determine what the scheduling will be.

I just wanted to note that and I think otherwise what the member has put forward is what we had discussed informally.

Mr Owens: Are you accusing me of telling the truth?

The Vice-Chair: Any other comments? That completes the matter then.

COMMITTEE BUDGET

The Vice-Chair: On to item number 2: committee budget for the fiscal year 1993-94. A proposed budget is before you, a summary of the budget. Mr Malkowski.

Mr Gary Malkowski (York East): I would just like to clarify. On the budget, it looks like we're including the cost of interpretation for presentations.

Clerk of the Committee (Mr Doug Arnott): The item covering simultaneous interpretation would cover the engaging of interpreters when the committee meets outside of Queen's Park and the interpretation service from here cannot supply interpreters, or it would cover the costs of any interpreters engaged in any language

that the committee might direct that service be provided in.

Mr Malkowski: So we would be providing interpreters if presenters request it?

Mr Owens: I think, Doug, there are two different issues.

Clerk of the Committee: There are two issues. To start with, if interpretation were to be provided in English and French, the first consideration would be the requirements of the French Language Services Act. Secondly, if service were to be provided in any other language, the committee or subcommittee would have to give direction to the effect that expenditure should be made.

Mr Tony Martin (Sault Ste Marie): We can assume that's going to happen, that the needs of any presenters will be met in terms of their ability to present to the committee?

The Vice-Chair: It has been suggested that's a matter that should be directed to the subcommittee for discussion and report back.

Mr Martin: Is there room within the budget for that to happen if in fact a decision was made to that end?

The Vice-Chair: It's indicated affirmative. Mr Owens.

Mr Owens: Just a quick comment. I think that in terms of special requirements of deputants there's always an availability for the Chair to approach the Board of Internal Economy and this, it is my understanding, has been done on previous occasions. I don't believe it has been a problem. Our clerk has been quite proactive in terms of ensuring that the special needs of all people appearing before this committee have been met. I have faith that we will continue that tradition.

The Vice-Chair: Thank you. Did you wish a presentation of the budget, Ms O'Neill?

Mrs Yvonne O'Neill (Ottawa-Rideau): Yes. In conjunction with the discussion that we just had, is the Board of Internal Economy going to approve these committee budgets tonight? Is approval necessary, I guess is my fundamental question.

Clerk of the Committee: Is approval necessary before expenditures are made?

Mrs O'Neill: Yes. Things are different this year.

Clerk of the Committee: In general, in the past expenditures have been made before budgets have been approved by the board. In some years, the board has not met for quite a long time, and in the meantime the House has ordered committees to conduct hearings and, necessarily, expenditures have been made. I understand the board is not considering committee budgets today and may not be, I understand, for one or two meetings.

Mrs O'Neill: Are these—what should I say?—average figures that all of the committees are

considering this year?

Clerk of the Committee: The base budget is similar for all committees, yes.

Mrs O'Neill: What's different then?

Clerk of the Committee: I can tell you that changes in this committee over last year's, which provided for the same period of eight weeks of meetings in the recesses, indicate an increase of expenditure. Last year's estimate, approved by the committee and the board, was approximately \$176,000. The committee spent \$138,000 approximately. There's therefore about a \$21,000 increase in the budget that is to a large extent provided for by an increased provision for advertising.

The committee did spend more on advertising last year, advertising twice, than the estimates provided for. In addition, there are more members from outside of Metropolitan Toronto, and certain costs required by statute are estimated for accordingly.

Mrs O'Neill: I have some difficulty at this particular time, when all of the other people are being asked to really reassess their budgets, that our budget, which came in at \$138,000, is now being presented at \$197,000 and was at \$176,000 last year. I do understand there are some further expenses which can't be avoided regarding our own locations, but why are we not going in around \$175,000, for instance, or something like this?

We, the members, are the ones who have to defend this budget and I'd certainly like to have something that's quite defensible, considering what all the other members of my community are being asked to look at.

Mr Owens: I think Ms O'Neill makes some good points, and just to carry on with the comments that Mr Arnott was making, in fact we have just barely started the estimates process under the Board of Internal Economy. In terms of how committee budgets will be viewed by all three parties represented on the committee, I think there's a clear understanding that we have to take a leadership position with respect to the amount of money spent by the committees, but also keeping in mind that there is a certain functionality the committees have to have in terms of going out to the parts of the province outside of Metropolitan Toronto.

But your comments have been heard and, as one of my party's representatives on the board, I'll be certainly pleased to carry those comments to the board meeting.

1640

Mrs O'Neill: I'd hate to have to vote against this budget, but unless I get a better explanation, I might have to do that. What I find is we're going to have what we consider less than hearings on Bill 4. We're not going to leave the city. So that's one major one. I don't know what the other piece of legislation is that we're going to deal with this summer. Maybe Mr Arnott can help us. Have we had another piece referred to us, Mr Arnott? What is your projection?

Clerk of the Committee: Government legislation? No.

Mrs O'Neill: But there likely is one of those major pieces that we're going to be handed?

Clerk of the Committee: I don't know at this point.

The Vice-Chair: Are you finished at this time?

Mrs O'Neill: I am. I'm not comfortable.

The Vice-Chair: Thank you. Mr Martin.

Mr Martin: It seems to me that these budgets are put together projecting what could possibly be the activity of this committee. Given that I think we're all in a mode of being careful about what we spend and what we do, as time unfolds and as the business of this committee unfolds, we can continue to make decisions collectively about where we go, how long we go and what that will cost us. So it seems to me that we still have some control ourselves around just how much of this we will expend.

I guess to respect the work that has been done by the clerk in putting this thing together, he has put, it seems to me, a framework within which we should be able to work. Yes, it's more than last year, but even with the difficult economy that we're in, I think we need to be realistic and understand that sometimes the cost of doing business around here goes up and we need to at least have the freedom, if we as a group see fit or see a need to consult perhaps further than we had thought on some issue, then we can.

I think a case in point is the piece of legislation we have in front of us here. The opposition would like us to go out or sit longer and thereby spend more money on that piece of business, which is neutral as far as I'm concerned, but it costs money. We're saying we'd like to do it in a shorter time frame which will allow us to be a bit more cost-conscious and not spend as much.

I think we still have, even with passing this budget, room to make decisions collectively around this table that will allow us to make those savings that the member opposite is wanting us to do, it seems.

The Vice-Chair: Thank you. Mr Arnott.

Mr Arnott: I'm only substituting in this committee this afternoon on behalf of my party and I may have missed this point earlier, but I would like to ask the clerk how much time was spent on travel last year with this committee. Were there several weeks of travel involved?

Clerk of the Committee: There were two weeks of travel to six cities outside of Toronto in the winter recess.

Mr Arnott: I assume that's a very significant part of the additional expenditure that's reflected in this new budget, the anticipation that we'll be doing more travel than we did last year.

Clerk of the Committee: A small amount more.

Mr Arnott: How do you come to that conclusion when you're making your guess, your estimate?

Clerk of the Committee: In part it was direction by the subcommittee when I was preparing the budget and in part it's a guesstimate.

Mr Arnott: Okay. I just find myself in agreement with Mrs O'Neill. It's very, very difficult for us to put forward a budget and approve it, the bottom line being significantly more than what was actually expended last year. I just raise this as a point of concern.

The Vice-Chair: Thank you. Mr Owens.

Mr Owens: Just in terms of the subcommittee process, I was part of that process and certainly suggested that in terms of a buffer with respect to travel, we may want to build that in. But I think it needs to be noted that if in fact the money is not spent, it goes back to the Legislative Assembly and is certainly not utilized by the committee.

On the other hand, if we find ourselves with a project of the same significance as we had during the last intersession, that is, the long-term care legislation, which required a significant amount of committee time, then we have the funding in place, not having to go back to the Board of Internal Economy requesting supplementary funding.

The Vice-Chair: Thank you. Anyone else? Any other comments? If not, we have a proposed budget before us. How would you like to deal with it?

Mr Owens: I move the motion.

The Vice-Chair: Moved by Mr Owens. All in favour? Opposed? Carried. Thank you. Any other items of business to come before the committee today?

Mrs O'Neill: Mr Chairman, Mr Gardner has begun to try to present to us some of the questions that we will have to have answers to before we actually even begin the process. I think all people have the same handout I do. You don't? Okay. Well, I do think there are certain pieces of data that we should have on the table before we begin, particularly in the very confined time lines that we now find ourselves in.

I think we should have from the Ministry of Education the number of boards providing and those not providing junior kindergarten; I think we should have the enrolment numbers and the percentage of children in those enrolment numbers from the respective age groups; and surely the ministry must have looked at the funding provisions and the cost estimates of the expansion of junior K from their perspective. I do know that the boards are certainly telling us what they think the costs are. Perhaps the ministry would like to have its side presented on the costing.

I think we also need information on the hard-to-serve, which of course is a very fundamental part of Bill 4. How many students are categorized—a terrible term, but the term we use at this moment—as hard-to-serve in the province, and what kind of facilities are they in or where are they being educated?

Mr Owens: A good question.

Mrs O'Neill: I don't think that we're clear yet on the ministry's policy directions and integration. We haven't yet seen mandatory integration, but we certainly have seen very strong encouragement. So perhaps we can have an update. These are things I think should be covered in the opening remarks, if possible.

Then of course the final item is the child care within Bill 4. We'd like to know the number of schools and boards, but particularly boards, with school-based child care services, the number of children who are served in those, and indeed the number of schools, and we've seen some media, where there are child care services that are not being used. I think that's important.

I'll think of others as we go along, but to put this bill in context, and I think we have to do it rather quickly, we have to have some idea of what's actually going on out there or we're really going to be spinning our wheels. This is basically data. Other than the integration question, everything I'm asking for is data.

Mr Martin: There's no doubt that those are very important questions and we will be attempting to provide as much information as is absolutely possible to all members of the committee so that in the end we can have a piece of legislation that reflects both the reality and the aspired end that the government has in this, to provide the best of education opportunity for the children we serve in this province. We'll have as much as we possibly can, and if it isn't enough, then we'll go back and get some more, Ms O'Neill.

The Vice-Chair: Did you wish to speak to your memorandum circulated?

Mr Bob Gardner: No, Mr Chair, I think that's sufficient. Ms O'Neill has made her request known and the parliamentary assistant has responded—unless there's anything else members want specifically from me—but the ministry would be the source of those data anyway.

The Vice-Chair: Thank you. Any other comments? The subcommittee should meet for a moment either to deal with the two matters referred to it or just set a date for a meeting.

Does that conclude the business? Thank you.

The committee adjourned at 1650.

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Cunningham, Dianne (London North/-Nord PC)

***Hope, Randy R.** (Chatham-Kent ND)

McGuinty, Dalton (Ottawa South/-Sud L)

***Martin, Tony** (Sault Ste Marie ND)

***O'Connor, Larry** (Durham-York ND)

***O'Neill, Yvonne** (Ottawa-Rideau L)

***Owens, Stephen** (Scarborough Centre ND)

***Rizzo, Tony** (Oakwood ND)

***Wilson, Jim** (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Arnott, Ted (Wellington PC) for Mrs Cunningham

Malkowski, Gary (York East/-Est ND) for Ms Carter

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service



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Official Report of Debates (Hansard)

Monday 7 June 1993

Journal des débats (Hansard)

Lundi 7 juin 1993

Standing committee on social development

Comité permanent des affaires sociales

Education Statute Law
Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation



Chair: Charles Beer
Clerk: Douglas Arnott

Président : Charles Beer
Greffier : Douglas Arnott



Coat of arms

A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

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Les Armoiries

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

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Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 7 June 1993

The committee met at 1541 in room 151.

The Vice-Chair (Mr Ron Eddy): We now have a quorum, so the standing committee on social development on Bill 4, An Act to amend certain Acts relating to Education, is now in session.

SUBCOMMITTEE REPORT

The Vice-Chair: Item 1, report of the subcommittee, has been circulated, so you've had an opportunity to examine it. Any questions, or do we have a motion?

Mr Jim Wilson (Simcoe West): Mr Chairman, perhaps you could fill us in on what the discussion has been with the House leaders. I understand that the request for a second evening has been rejected by the House leaders.

The Vice-Chair: I didn't know about that. We haven't had a report back.

Mrs Yvonne O'Neill (Ottawa-Rideau): I understand also, Mr Chairman, that the continuing requests from the opposition through the House leaders is for an extension into the summer recess for hearings. That's the way it was left.

Mr Jim Wilson: I would concur with that understanding.

The Vice-Chair: Any other point the member wishes to make? If not, how would you like to dispose of the report? Is it agreed that—

Mrs O'Neill: I think it's slightly inaccurate, Mr Chairman, and as a result I don't think we can accept it, because the section on what has been agreed to regarding the evenings, "That the Chair be directed to write to the House leaders"—I think we have to say that that is unresolved, or else the—it's correct that we asked that that be done, but the resolution has not happened and I think we have to note that somewhere.

Mr Tony Martin (Sault Ste Marie): I was under the impression that we would, at some point either today or tomorrow, have another subcommittee meeting to deal with just that issue and then once we've decided how much time we have, to then talk about how we will schedule the people who are going to come before us. There's nothing in this report that I can see that wasn't what we decided to do at that subcommittee, so in terms of accepting this report, I have no difficulty. I think we can certainly have the discussion that Ms O'Neill is referring to, perhaps in subcommittee, where we can then ascertain what we're going to do with the people who will come before us and how we will schedule them now that we're short an evening.

Mrs O'Neill: If I may answer that, Mr Chairman, I really don't see us meeting as a subcommittee, because

the only thing we can do is trust that the House leaders will resolve this. We have nothing more to offer the House leaders. It's now in the hands of the House leaders. They know what we're requesting; we've put it in writing. The House leaders themselves have other ideas about this, particularly ours and, I presume, from the Tories, and I don't think we should mess with their discussions.

Mr Jim Wilson: If I may add to that, I agree with what Mrs O'Neill has just expressed. To agree with Mr Martin, I don't see any problem with passing the minutes; I think they are an accurate account of what was decided at that time. However, I want to make it clear that as a member of the subcommittee I am not attending any more subcommittee meetings of this committee regarding this piece of legislation until there's clear direction from the government House leader as to what the government's intentions are. I'm getting a little tired of attending these subcommittee meetings, only to have suggestions that are concurred in in those meetings rejected by the government or the House leaders of the three parties. It's a waste of our time as parliamentarians and I would look to the government and particularly Mr Martin, the parliamentary assistant, for clear direction to this committee before he summons us together again.

Mr Martin: I think it was fairly clear when I attended my first subcommittee meeting last week that our intention is to get this piece of legislation back into the House before the House goes down on June 25.

Mrs O'Neill: It's recessing, not going down.

Mr Martin: Recessing, whatever, yes. Excuse me.

Mr Gilles Bisson (Cochrane South): Bad choice of words.

Mr Martin: Recessing, rising, whatever the language that you want to use is. That's what we were intending. We attempted to accommodate some more people coming forward before the committee to make their presentations, but that's obviously not in the cards, so I suggest that we get on with the business of the committee.

The Vice-Chair: I have the subcommittee's report. Is there consensus it be adopted? Agreed.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

Mr Martin: It is indeed a pleasure to be here today

and to be introducing this legislation to this committee. I hope that we will have a constructive and positive time together over the next couple of weeks as we look at this very important move forward re how we deliver education to the children of this province.

There are many things in this bill that are certainly not new in any way. There have been attempts made over the last few years to bring some of this forward. It has now been gathered together in an omnibus fashion under the guise of Bill 4, and we will be more than happy to entertain any comment of improvement or ways that we might amend this to perhaps make it meet the spirit and the intent of the original piece that we brought forward.

I'd like to spend my time here today outlining the major items in this bill and putting them into context with the aims of the government.

Junior kindergarten: As members know, Bill 4 makes it mandatory for school boards to offer junior kindergarten classes by September 1994. The bill also provides that the minister may make a regulation allowing those boards that demonstrate they need more time to implement junior kindergarten to do so over a period of three years beginning in September 1994, according to conditions established by the regulation.

This measure speaks to the government's commitment to provide opportunities for all children in Ontario to benefit from early educational programs. Numerous research studies have shown that the period from three to eight years of age is extremely important in the intellectual and social development of children and to their later success.

In the junior kindergarten and kindergarten years, children begin to develop considerable social and physical skills. They also begin to hone their language and thinking skills when they are given opportunity to do so. As an example, there are growing numbers of young children whose first language is neither French nor English. By giving them an opportunity for early education programs in junior kindergarten, they can interact with other children and learn the language of instruction.

Most importantly, young children, through interaction with other youngsters and adults, can develop confidence in themselves and gain positive attitudes towards learning. In addition, it is clear that early identification of a child's special needs can provide an earlier opportunity to provide special programs to help the child.

These are the reasons the government is committed to junior kindergarten. However, this measure does not force parents or guardians to enrol their children in junior kindergarten. It will remain a parent's decision whether or not to enrol children in both junior kindergarten and in kindergarten.

I would like to point out that out of 172 school

boards in Ontario, only 20 do not yet have junior kindergarten programs.

1550

To help boards offset the costs of implementing junior kindergarten, beginning in 1990 the Treasurer allocated to the ministry \$54 million in operating grants for the implementation of junior kindergarten and full-day senior kindergarten.

However, because implementation of junior kindergarten programs by those school boards that do not yet have them has been slower than anticipated, these funds have not been fully utilized. There are no plans therefore to allocate additional funds to junior kindergarten beyond the \$54 million.

Child care: Let me now move to the measure in Bill 4 which will allow a school board to be the operator of child care programs under the Day Nurseries Act. This will not force boards to get into the day care business. It is a voluntary measure which promotes and strengthens schools and child care partnerships. In fact, it removes a barrier to school board participation where needed.

There are communities throughout the province where a child care centre is needed and where a school has space but where no agency is available to provide the service. This amendment will allow school boards to hold a licence which a number of boards have asked for so that they can link educational and child care programs. We will also be moving an amendment to clarify the role of the French language sections of school boards with regard to child care licences.

The child care programs will be operated under the Day Nurseries Act, which means they will be staffed not by teachers but by early childhood educators. We believe this is an important step to ensuring that necessary services are better coordinated for children.

ASL and LSQ: Another amendment concerns the use of American sign language, ASL, and la langue des signes québécois, LSQ, as languages of instruction for deaf and hard-of-hearing students. This was a recommendation in the report on deaf education and is supported by many parents. It would also make education more accessible to those students in whose homes ASL or LSQ are used. ASL and LSQ are very much a part of deaf culture in anglophone and francophone communities in North America.

Bill 4 would also repeal the hard-to-serve provisions in the Education Act. When the current special education legislation was passed in 1980, it was not known whether the school system would be able to educate some students who needed special health care treatment. To make sure that a program would be available for these students, the hard-to-serve provisions require that when a school board determines that a student is hard to serve and the student needs to be educated elsewhere,

the government must pay the cost of placing the student.

Today, special education is a well-developed and integral part of our education system. Appropriate special education programs are available through school boards or through residential placements at ministry-run schools for the deaf and blind and for learning-disabled students. So removal of the hard-to-serve provisions does not mean that children will be left out in the cold. There are programs to meet the needs of special students.

Currently, there are about 165,000 students enrolled in special education programs in Ontario. This represents about 17% of the total student population. In recent years, there has been tremendous growth in special education programs at local school boards. As an indication of the 165,000 special education students identified in the province, 163,661 are enrolled in programs operated by school boards.

Examples of the kinds of special education programs operated by school boards include programs for students with special needs such as behaviour, autism, hard of hearing, learning and developmental disabilities, speech and language and low vision.

There are also a very few students whose medical needs cannot be met in Ontario at this time. These are often children with severe psychiatric or conduct disorders. In these cases, OHIP authorizes placement for them in facilities out of the country. If their medical treatment includes an education program, Bill 4 would give the Ministry of Education and Training authority to pay towards the cost of the education program.

Bill 4 also removes the term "trainable retarded" from the Education Act because the term is no longer acceptable to either parents or the education community. This does not mean there will no longer be programs for these children. By removing this term and its provisions, we are broadening the range of placements for these students, and in so doing, we remove a perceived barrier to the integration and placement of students with developmental disabilities. Bill 4 ensures that all exceptional students will now have access to the same procedures for identification and placement.

Regulation 305 of the act already sets out the policy for special education identification placement and review committees and appeals of committee decisions. That regulation continues in effect, of course. Among other things, regulation 305 specifically states that school boards must prepare a guide for parents describing the identification and placement review process and the parents' right to appeal any decision of the board committee.

I would like to move on now to another measure in Bill 4 that has raised some questions by members. That is the amendment that establishes some uniformity in the length of time a student may be suspended from

school. Currently, the maximum length of a suspension is set by the local school board. This has resulted, in some cases, in almost indefinite absences from school by a student. Bill 4 sets 20 school days as the maximum length of a suspension. As well as establishing some uniformity throughout the province, 20 days allows boards, in most cases, to make arrangements for support services a student may require. If students continue their inappropriate behaviour after returning to school, they may be suspended again.

The amendment says that students may not return to school while they appeal a suspension. We believe this measure is necessary to ensure the safety and wellbeing of other students in the school. If the appeal decides that the student was wrongfully suspended, the student may return to school. If the suspension has already been served by then, the information on the suspension will be removed from the student's record. Of course, the provisions for expulsion are not changed and, where warranted, in extreme cases boards may expel students.

Bill 4 also contains an amendment that will require school boards to notify the Minister of Education and Training if a teacher is convicted of a Criminal Code offence involving sexual conduct involving a minor, or of any other offence that in the opinion of the board indicates that students may be at risk. The reason for this amendment is clearly to ensure the safety of students.

1600

The Education Act gives the minister the authority to suspend or cancel a teacher's certificate, thus prohibiting the teacher from teaching in Ontario and, in effect, anywhere else in Canada. Teachers who have been decertified are informed that their names are circulated to all Ontario school boards and to all education ministers in Canada.

There are very precise procedures set forth in the act and in the ministry's document on policies and procedures before a decision is made by the minister to decertify a teacher. These procedures involve the teacher's school board, the Ontario Teachers' Federation and officials at the Ministry of Education and Training.

Finally, during the second reading debate on this bill, the member for Oriole requested that consideration be given to the introduction of an amendment that would reflect the intent of the bill she introduced last year concerning admittance to school of the children of illegal immigrants. We are prepared to move such an amendment for the committee's consideration.

These, then, are highlights of the amendments contained in Bill 4, and I will be glad to answer any questions you may have. There are also staff from the ministry, who will be able to give more detailed information as needed. I believe they're going to make a presentation as well right now, if the Chair will allow.

The Vice-Chair: Would you like to come forward and make the presentation?

Interjection.

The Vice-Chair: I was asked that we have the full presentation before questions. However—

Mrs O'Neill: Well, I would like to ask some political questions, and I think they should go to the parliamentary assistant.

In section 11, which is a section regarding junior kindergarten, there is a discussion about the \$54 million. I'm not clear what kind of commitment the parliamentary assistant made to that. The figures state that \$19 million has been taken up, so where are we with the other \$30-plus million? Is it on hold, or has it gone into the general revenue fund, or—you say no more funds will be added. Is this still in the bank?

Mr Martin: As I said in my opening comments, there will be no more money above and beyond the \$54 million. I don't have a precise answer for you on that one, but I will get it for you.

Mrs O'Neill: Well, that is a very, very important question, and certainly the boards that are yet to begin are going to want to know where that \$30 million-plus is.

My second question, also a political question, I think, on section 12: I wanted you, if you could, Mr Martin, to be a little clearer on what you said about the fact that you want to remove the term "hard to serve," but you had, at least I thought, an impression that there would still be a group of students without a label who, if their diagnosis was somehow tied to a medical condition, could be educated even outside the country and that the educational component would be paid for by the Ministry of Education and Training. Is that correct?

Mr Martin: Yes.

Mrs O'Neill: Are these the same students we'd know as hard to serve?

Mr Martin: I suppose there are situations where they might be, but I think the important piece here is that they're first of all identified by the Ministry of Health as needing the services that it provides. Given that that decision is made, we would then provide the money for their education and training while they're out of the country.

Mrs O'Neill: Okay. I find a lot of the presumptions you made in your introduction to this section less than solid at this moment. I don't know about the boards you deal with on a regular basis, but the boards I deal with, unfortunately—and they feel it's unfortunate as well—are making special education cutbacks even as we speak. Unfortunately, many of them began there, and the integration program is not going to have the supports it has had. To then have another uncertainty put in the special education field in education at this moment makes me very, very uncomfortable.

I have another question on that section, but it is a more technical question and I'll leave it for the ministry staff.

The Vice-Chair: Any other questions at this time? If not, would the staff of the ministry come forward, please, and make their presentation? Give your name, please.

Mrs Julie Lindhout: I'm Julie Lindhout, director of the legislation branch in the Ministry of Education and Training. I would like to basically take the committee members through the bill.

You have before you a binder which we have organized according to the notes of Bill 4. For each item you have a divider, and for each item I have given also whether or not this particular item was in a previous bill, because that will give you an indication of how well-known that has been and what kind of consultation there has been on that. It also indicates the specific sections of the bill dealing with that point, and a very brief description.

On those sections that are fairly technical and where more information might be useful to you, we have included some additional material for you. Again, if you request more material over the next little while, we can provide it for you and you can add it to the sections on the bill.

So if we start with the first section, section 1, there are a number of issues in this bill that arose because of legislation introduced by the Ministry of Municipal Affairs that dealt with fairly technical issues on assessment and apportionment of various levies. There were some oversights: The proportionalities and the various specific provisions for school boards in some cases were missed, and the various clauses in this bill correct those situations.

So the first note regards the definitions of "commercial assessment" and "residential and farm assessment." They are duplicated in these other bills. It makes people think that they're different; in fact, they are not. So we propose simply to remove them from all other areas so that there is a clarity that only the definitions in the Education Act apply.

The second issue relates to the apportionment of telephone and telegraph levies in specific regional municipalities that have been reassessed under their legislation. According to the Education Act, there's a very definite formula that splits these T and T levies between public and separate school boards in proportion to the residential and farm assessment, and this simply restores that proportion.

Item 3 is here at the request of the district council for Muskoka. Property assessments are scheduled on a four-year cycle and the valuations are tied to a specific base year. In establishing the market values for a base year, the shoulder years—in other words, the years immedi-

ately before and immediately after the base years—are also used. The district council for Muskoka requested that 1988 not be used as the base year as it believed it was an atypical year. So they requested in 1993 the use of 1992 for 1994 taxation, and that request was granted. However, they have now requested that 1993 be included because there were insufficient sales in 1992 to create a reliable base for market values. This is included in this bill because the assessment base is important for both municipal and school board taxation.

Item 4: The references to “trainable retarded children” and “trainable retarded pupils” are removed from the Education Act and from the Ottawa-Carleton French-Language School Board Act. In 1987, concerns were raised before the standing committee on administration of justice regarding the constitutionality of the provisions, and therefore the minister made a commitment at that time that those sections would be reviewed. We are now bringing forward the repeal of the provisions respecting “trainable retarded.” This means that now the very same procedures for identification and placement that apply to other exceptional pupils will also apply to the pupils who were previously called trainable retarded. We now recognize them as exceptional pupils with developmental disabilities.

We have offered for you some statistics on the numbers of students who were previously identified as trainable retarded, with an indication of whether they are in full-time enrolment, partial integration or regular classes.

Issue 5—

1610

Mr Bisson: Just for clarification on issue 4, how are you referring to them now? Exceptional pupils what?

Mrs Lindhout: With developmental handicaps, developmental disabilities.

Issue 5: This clarifies that any alteration of county or municipal boundaries that was made between 1974 and the end of 1992 will result in coterminous boundaries with the school boards. Boundary changes during this period were actually very minimal, but there were a few minor changes. It clarifies that the school board boundaries are the same.

The cutoff date for January 1, 1993, was chosen so that it would not prejudice the negotiations occurring at this time in London and in Middlesex county, because those are more than minimal boundary changes. Those negotiations can still be completed. The minister then is able to, by order, provide for the boundaries in that situation.

Item 6 deals with provincial reviews. This gives the Minister of Education and Training the explicit authority to conduct reviews of classroom practices. With the increased focus on accountability and a review of education programs and student achievement, it's

appropriate to make explicit the authority that has always been implicit in the legislation and state clearly that school boards and inspected private schools will be required to participate in these reviews.

There have been some questions about the applicability of this to the inspected private schools, but the ministry already inspects private secondary schools that request inspection because they wish to grant the Ontario secondary school diploma. Provincial reviews are among the methods used to determine the quality of the instruction that would allow the minister to permit a private school to grant the Ontario secondary school diploma. It's important for the ministry to be able to report on the quality of education in all schools granting the OSSD.

Issue 7 is one that was already referred to. It would grant the minister the authority to pay education costs for education received outside Ontario by a person who is outside Ontario for the purpose of receiving health services covered by the Ontario health insurance plan. From time to time, OHIP determines that certain children need to be treated outside the country, and if their medical care and treatment includes an education program, the ministry can now pay towards the cost of the education program.

On two occasions, a board used the hard-to-serve provisions of the Education Act to have the government provide the funding. Again, it was not really an appropriate use, because the boards would have been able to provide an education program if the student had been treated in Ontario. Most of the treatment centres have agreements with school boards that provide an education service. However, the hard-to-serve section was used because there was no other authority in the Education Act to permit the minister to pay for the education of these students. If we are repealing the hard-to-serve, we want to make sure that there is authority for the minister to pay for such students.

Issue 8 deals with the authorization to use American sign language and Quebec sign language as languages of instruction. Currently, the Education Act only permits French and English to be used as languages of instruction. Other languages can be used as subjects of instruction, but not as languages as a means of teaching other subjects. This is an amendment that the deaf community has been waiting for.

We've provided you with a note to give some additional information also on how we are planning to deal with the supply of teachers qualified in ASL, because it is a language that many of the teachers need to learn.

The next issue deals with an amendment to the Municipality of Metropolitan Toronto Act that will permit the local school boards to take over the responsibility for the education of those students we've formerly recognized as trainable retarded. At the moment, in the two-tier system of public school boards in Metropolitan

Toronto, it is the Metropolitan Toronto School Board that is authorized to provide special education programs. It currently operates 47 such schools.

A task force of this school board examined the delivery of programs and in 1988 recommended that the local public school boards assume responsibility for these pupils. This recommendation is fully supported by the public school boards in Metro. The divestment of the programs and services involves the transfer of both teaching and non-teaching staff and the bill contains provisions to protect the employment status of these employees.

There is an additional note provided for you too that describes the current situation and the intent of the programs after transfer. As an additional note, this has no effect on the separate school board in the Metropolitan Toronto area; it's only the public board.

Issue 10 deals with the suspension of pupils. It provides, first of all, that a suspension cannot exceed 20 school days. In some cases, there have been almost indefinite absences and that is felt not to be appropriate. However, a sufficient amount of time needs to be given to permit boards to provide for support services that a pupil may require, because those students who are suspended for any length of time usually have problems that are not directly educational problems but they need support in other areas. This doesn't mean that the student can then come back to the school and not be suspended again. If the student's behaviour is still inappropriate, the student can be suspended again.

A student cannot return to school while the suspension is being appealed. In many cases, that is necessary to ensure the safety of other students. However, if it's determined that the student was wrongfully suspended and the suspension has been served, then the record will be clear. There will be no indication.

These amendments also give boards the option to establish committees to deal with expulsions and suspensions rather than have these issues dealt with by the whole board. This provision will enable some boards to deal more quickly with these cases, including hearing appeals of suspensions. Currently, a whole board has to hear these and for some boards that creates problems, bringing the whole board together. This permits them to set up a committee, but it doesn't require them. They can continue with their current arrangement. We've provided an additional note for you on the suspension provisions.

Issue 11 deals with the operation of kindergartens and, after August 31, junior kindergartens, and gives the power to the Lieutenant Governor in Council to allow a board to phase in the junior kindergarten requirement by September 1, 1997.

The government is convinced of the importance of permitting a child to receive a broadened educational

opportunity through early learning, which has been shown to have a positive impact on later learning. The mandatory requirement will promote equity of access across the province since many boards have already implemented the program. We often get questions of, "Why, if I lived in this board, could my child attend junior kindergarten and, if I live in another board, he or she cannot?"

The bill now, however, allows for a phase-in period of three years according to conditions to be set out in a regulation for junior kindergarten, because of the fact that some boards have indicated that they will not be able to fully implement the program in September 1994. We've provided for your information a fairly lengthy briefing note on the implementation of junior kindergarten. Kindergarten is no issue because all boards already have that.

We also provide at the end a list of the boards not offering junior kindergarten as of September 1993 and a list of boards that will require an exemption to phase in. The reason they're different is that among those boards that do offer, there are a few that don't have the complete program throughout the whole board, so many still need an exemption to phase in over the three years the complete program in the whole board. On your list of those requiring an exemption, you may wish to add the information that we just got, that is, that the Oxford board of education will also probably require an exemption.

1620

Then we have also added for your information a list of funds for large-scale equipment that has been provided over the past three years to school boards for the implementation of junior kindergarten.

Issue 12 deals with the repeal of the hard-to-serve. After this repeal, those students will be governed by the same provisions that apply to other exceptional pupils. These are the amendments that were previously contained in Bill 37.

As was already stated, the government now feels that special education is a well-developed and integral part of our education system, and there are appropriate special education programs available through school boards or through residential placements provided at ministry-run provincial or demonstration schools.

The amendment is consistent with the responsibility of school boards to provide appropriate special education programs for all their exceptional pupils, whether they do so directly or through arrangement with another board, a provincial residential demonstration school, a provincial school or a care and treatment facility operated by the Ministry of Community and Social Services.

There is a date mentioned in the bill so that it's clear that pupils who have been found hard to serve by a

school board before June 2, 1992, which was the date of introduction of Bill 37, will continue to have the cost of their placement funded by Ontario until June 30 of the school year in which the legislation comes into force. So there will be some consistency, students who will not be cut off in midyear.

We've provided some additional information for you on hard-to-serve pupils and how it's been used, and also information on the current situation with regard to special education: the numbers of programs, the programs that are available, the numbers of students enrolled in such programs, an outline of complete statistics on all those students who have been identified as students with exceptionalities.

One further piece of information that we will be providing for you soon is an outline of the whole identification, placement and review process, including the appeal process and how the special education tribunal would work in order to see how parents can still have recourse to hearings and have their children appropriately placed. Finally in that, a note on the proportion of education spending related to special education.

Issue 13 removes a distinction between qualifications for admission to a continuing education course that is eligible for credit towards a secondary school diploma and the qualifications for admission to day school courses that are eligible for credit. It's no longer appropriate to have different standards of admission for courses that lead to the same credit for an Ontario secondary school diploma, so this amendment will enable more adults to choose the day school or continuing education program that is most suitable to their needs. We've provided, for your information, some information on the takeup in continuing education and also how it's funded at the moment.

Issue 14 is a housekeeping item related again to municipal affairs legislation. It deals with the definition of "municipal auditor." Currently, school boards are required to have their books audited by persons licensed as municipal auditors. This qualification was removed in recent municipal affairs legislation, and the standard is now auditors licensed under the Public Accountancy Act. Therefore, the Education Act is amended to be consistent so that people are not looking for qualifications that no longer exist.

The next item is also a housekeeping item. There is already a requirement for all other boards that if a person wishes to make an objection to someone else's right to vote in matters relating to school board elections, they have to be Canadian citizens. This provision is not in the section dealing with rural separate school boards, so adding it makes those provisions consistent with provisions for all other boards.

Issue 16 deals with another one of the reassessment issues. There are a number of areas that are reassessed

from time to time, and it was not clear in the municipal legislation that during the time the reassessment is in progress, the proportionality that exists under the Education Act continues to apply. Again, it's very important that it be clear what the proportionality is between public and separate school boards. So this makes it clear that the existing equalization factors continue until they are reassessed.

Issue 17: An obsolete reference to the Ministry of Intergovernmental Affairs is corrected. This reference still alludes to the time when what is now the Ministry of Municipal Affairs was a division of the Ministry of Intergovernmental Affairs, and therefore a power that the Minister of Municipal Affairs now has is referred to in the Education Act as a power of the Minister of Intergovernmental Affairs.

Issue 18 deals with a redundancy in calculating fees for Roman Catholic separate school students who are being educated in public secondary schools. At the time of the extension of funding, there were of course numbers of Roman Catholic students being educated in the public secondary schools. When the separate school boards elected to extend their programs for the senior division, those students who were in the public system and who wanted to stay there were allowed to stay there even though their parents might be switching the assessment, might be redirecting their taxes. They were allowed to stay there and special provisions were made for the payment of fees.

There was another provision that, under open access, students from either public or separate can attend secondary schools of the other board, and their home board, of which they are the resident students, must pay the receiving board. Again, there was a calculation of fees allowed for by regulation for that. Therefore, to simplify the situation we're removing the one dealing with the grandparented students and sticking only with the calculation of fees for open access. So there's only one way of calculating the fees. It doesn't remove any rights of students to either stay in the public secondary schools—it doesn't affect their rights.

Issue 19 deals with the requirement of school boards to notify the minister if a teacher is convicted of an offence involving sexual conduct and minors or of any other offence that may put pupils at risk. Most school boards do report these cases to the minister, but they're not required to do so. When the minister is notified, he initiates a process of determining whether the teacher's certificate should be suspended or cancelled, and we've included in your package the document that outlines the policies and procedures that the Ministry of Education and Training then follows to determine whether a teacher's certificate should be suspended or cancelled. This is a fairly lengthy process that recognizes due process, at the end of which, if a teacher's certificate is suspended or cancelled, then the teacher is notified that

that information also goes out to other ministers of Education and to all the school boards.

It tends also to affect other countries, because a lot of countries, if people move and teachers wish to become certified, ask for evidence that they are teachers in good standing in the jurisdiction that they came from. Therefore, it's important to follow a very careful process in this.

Issue 20 deals with textbooks for continuing education courses. At the moment, students in continuing education courses are required to provide their own textbooks. This will permit the minister, by regulation, to ask school boards to provide textbooks for students in continuing education credit courses.

However, the continuing education student population is a more transient population. Sometimes these are students who are residents of one board and take the continuing education courses wherever they are available. School boards have asked us if they would be able to require a nominal deposit to help ensure that the textbooks are returned, and this will allow them to do so.

1630

Issue 21 would give the school boards the authority to establish, operate and maintain day nurseries, because they will be enabled to hold a licence under the Day Nurseries Act. They will be holding it under the Day Nurseries Act, so that all the requirements of the Day Nurseries Act apply in this situation. It doesn't mean that they then become education programs and fall under the Education Act. We have provided additional information for you on some statistics for school-based child care: the number of centres, the number of children in school-based child care centres and a variety of other issues.

Since Bill 88 first appeared, and Bill 4 where this was first introduced, the French-language community asked whether it would be able to hold the licences. Strictly speaking, a French-language section of a school board is not a corporate entity in order to hold the licence, but we will be introducing an amendment to explain that for the purposes of child care licences they will be able to hold a licence and that this becomes one of the areas of exclusive jurisdiction for the French-language sections of school boards.

We've also included in the package a copy of the joint statement at the time from the Minister of Community and Social Services and the Minister of Education on child care in the schools and a package of questions and answers that deal with some of the issues, some of the questions that have again arisen recently.

The next issue, issue 22, deals with sick leave credits when teachers move from one school board to another. Currently, there are a number of situations in which teachers who for one reason or another leave the employ

of one board and move to another board can carry with them their sick leave credits. The only situation is that if they take other employment elsewhere and then go to another board, they cannot carry the sick leave credits with them. If they return to the employ of the same board where they were before, they can.

It seems inequitable to allow certain teachers to be able to carry over the sick leave credits and not others. It's particularly inequitable in that this has a disproportionate effect on women, since they more frequently move with their spouses to other jurisdictions and, especially in times of oversupply of teachers, have not been able to get teaching jobs immediately, have sometimes had to take other jobs until teaching positions opened up. Then, when they were able to get teaching jobs, they could not carry over the sick leave credits, whereas someone who had gone directly from one board to another board without intervening employment, or even years later but without intervening employment, could carry over the sick leave credits.

Some boards have indicated that this will be an additional expenditure for them. We really don't know to what extent it would be, but it could be an additional expenditure if the board has retirement gratuities and if the conditions for retirement gratuities were to apply to such a teacher. Boards have different arrangements for retirement gratuities, so this doesn't necessarily mean that it applies in all cases.

Issue 23 removes the condition of mental illness as one of the conditions that automatically disqualifies a trustee. The Ontario Mental Health Foundation requested the repeal of this provision. It's the only single reason related to health that is mentioned as a disqualifier for trustees, and it doesn't seem appropriate. There is still the provision that trustees may not miss more than three consecutive meetings of the school board, so if a trustee is unable to carry on the duties for that reason, he would still be disqualified under those terms.

We've added, for your information, the provision in the current legislation and the reasons for the repeal, because the term "mentally ill" is difficult to define. Some trustees may be undergoing treatment but be perfectly able to function while they're undergoing treatment. Therefore, it didn't seem appropriate to have that condition.

Issue 24 deals with the appointment of supervisory officers by school boards with fewer than 2,000 pupils. Currently all school boards who have more than 2,000 pupils are required to appoint a supervisory officer but those who have fewer are not. This amendment permits those school boards also to appoint supervisory officers, and the amendments also provide that they may do so together with other school boards, in agreements with other small school boards or with minority- or majority-language sections of other school boards, so

that they can be responsible for their own supervisory activities but they don't necessarily have to have a full-time supervisory officer for any one board. They can cooperate in that.

For those isolated school boards, the rather remote boards, the Ministry of Education and Training will still provide the supervisory officer services. They won't be required to do that.

Section 25 once again deals with one of the Municipal Affairs technical amendments which was missed. When in many cases the federal government provides payments in lieu of taxes, instead of taxes, for the department of defence property or for the armed forces bases, and in most cases school boards provide the education for these students, they should be able to share in the payments that the federal government makes to the municipality for that purpose.

Issue 26 deals with the special education advisory committees and the Ottawa-Carleton French-Language School Board. It is not specific in the Ottawa-Carleton French-Language School Board Act that each sector, the public sector and the Catholic sector, can have its own special education advisory committee. This clarifies that they can, and this is something that the board particularly has requested.

Section 27 also relates to the Ottawa-Carleton French-Language School Board. As you know, there is both a public and a Roman Catholic sector in that school board and this clarifies that for the purposes of municipal legislation respecting assessment, each section has the status of a board, so the Catholic sector is entitled to separate school taxes and the public sector is entitled to public school taxes.

The last technical amendment in issue 28 is to make it clear that the rates that are levied by a particular school board, if it's a public school board or a separate school board, only apply to property for which the owners have directed their support to the public school board or the separate school board.

So basically this is an overview of what's in the bill and of what we have provided for you in this book with regard to briefing materials.

The Vice-Chair: Thank you for your presentation. Does that complete the presentation, Mr Martin? So we're open for questions then?

Mr Charles Beer (York North): I know that we're going to be commenting and asking questions in this stage, and then we do have on our schedule our first witness, who will be coming forward later before we rise, so what I'd like to do in my remarks is just underline some of the major areas of difficulty that we have with this bill.

But before I do that, I would just like to begin by saying to the parliamentary assistant that we very much appreciate the background book. Certainly in my

experience with various pieces of legislation, this is a very thorough one, and I just want to say that whatever issues we may have with the legislation, we appreciate the material that is in this book, or I guess "binder" is the more appropriate way to refer to it. I think there are some things in it as well that we'll want to look at as we go through the hearings and probably questions that will arise later either in clause-by-clause or with specific witnesses, but let me just say that at the outset.

I think it's awfully important to underline as we begin this bill that one of the difficulties that I think both opposition parties have is that this is an omnibus bill—and again, this is not just done by your government; all governments have brought in omnibus bills—so there are many parts of it with which we agree, but there are a number of major aspects of the bill that, quite frankly, we would prefer to have seen separated so that we could deal with those in a much more appropriate way.

1640

I think it's for this reason that both the Liberals and the Conservatives have strongly urged that we have hearings into the summer to enable more groups to come and appear before the committee. So I want to make that comment at the outset, that I think there are difficulties at times with pieces of omnibus legislation, and I think some of the key issues that are in this bill reflect that.

That being said, I just want to underline three key areas of the bill that we are going to be both listening to witnesses on very carefully in their testimony and where we have some major issues, and those are three major ones: the sections that deal with junior kindergarten and how that is going to be implemented; the section that deals with the authority for school boards to operate day care centres under the Day Nurseries Act; and the provisions dealing with the hard to serve. Let me just come back and touch on each of those.

The first point, and I think one that to us is critical and a point that was made by a number of people in speaking on second reading of the bill, is that there are some new realities out there, some new financial realities for school boards. Over and above the difficulties that many boards noted they were having, particularly with respect to the implementation of junior kindergarten, but over and above those difficulties, with the expenditure cuts, with the proposed social contract—while that particular set of negotiations has failed, the government is still saying those dollars must be found in terms of savings—and through the budget, there is something in the order of \$800 million to \$900 million that in effect will be removed from the education system. I think it's something around \$290 million under the expenditure control, about \$535 million in terms of the wage rollback proposed under the social contract, and, from our own discussions with the various

school board associations, something approaching \$50 million when one looks at the budgetary impacts of the insurance rate changes.

As one then looks forward to how we are going to be able to take those dollars out of the system and still ensure that it can function, I think we really have to look at mandated programs and the priorities we have and how we see school boards being able to implement those specific programs. I say that in the full knowledge that it was our party, as government, that brought in junior kindergarten and a number of other programs. But clearly we are in a different period, so we have to look very, very carefully at to what extent the school boards, given the magnitude of these cutbacks, are in fact going to be able to deal with not just junior kindergarten in terms of the 18, 19 or 20 school boards but, more broadly speaking, all of the school boards out there, all of which are going to be under severe financial pressure. So we have a major concern around that and want to explore that more fully as we go through these hearings.

The second point I would want to make deals with the amendment regarding day nurseries and the authority for school boards to operate child care centres. Again, the issue here is not that there ought to be child care centres within schools; again that was something that we brought forward. But I think it is, what is the context within which this amendment has been brought? What is the context in terms of the government's future initiatives and programs with respect to the whole child care area?

A couple of weeks ago, with the Minister of Community and Social Services and with the Conservative critic for social services, the three of us were on a panel with the Association for Early Childhood Education, and there were a number of questions raised about just what this means in terms of the Ministry of Education's role overall in child care.

I understand the point that the parliamentary assistant made, that in some cases really all that one is after here is to allow school boards to be able to, by holding the license, ensure that child care is provided. But with the release of the so-called cabinet document on child care, and as yet no meaningful public debate in terms of just where this whole sector should go—not just the age three to five but for those right from infancy—there are questions, and I think very legitimate questions, about who ultimately is going to play the major role in providing for all of that child care. Is this an attempt through the back door to, in effect, make education the primary player? We have concerns about that, questions that we want to ask, witnesses who will be coming forward and questions to pose to the government, so we have a major concern around that issue.

With respect to the issue of hard-to-serve—I use that as the jumping-off point because it really speaks to the

whole issue of special education and the fact that these changes have been placed within this omnibus bill—going back to the period when we were in government, I think there has now been an expectation for a number of years that substantive proposals for change would be brought forward in a unique act, a special-education act that would deal with a variety of issues which have been raised both by the ministry's own Advisory Council on Special Education as well as by a whole number of different groups out in the field who represent students with various exceptionalities.

So the question then is, what also is this part of? What changes is the ministry looking at? Is there going to be another piece of legislation that will deal with, for example, changes to the review process, the IPRC, as it's called, in terms of how that functions? Is the ministry going to be making changes by regulation or simply by directive?

If you go out and meet with people who have children with a variety of exceptionalities, there is real concern there about just what the direction is. In some cases there are those who are arguing strongly for full integration, others who want to see choice, but there's an uncertainty in terms of exactly where the government is going. There was a consultation process that was conducted in 1992. People would like to see that document made public.

So the questions around the issues that are raised in Bill 4 on children with either learning disabilities or developmental disabilities or the issue of hard-to-serve are just, again, where are we going? What's the vision? What's the direction? What else is going to happen and when, and how are we going to ensure that all those who are most directly affected by these changes will be involved? I think we need some answers to that, and I hope, as we go through the hearings—in fact, I know from a number of the groups that are coming forward that they will be raising these issues. I hope we can get some more specific responses.

I have some other questions on specific areas, but I'd just like to make one final, general point and then allow my colleagues to make some comments.

Ce que je veux ajouter est au sujet de certains changements qui touchent la communauté francophone. Je pense que c'est très important, et on va le faire dans les changements proposés, que les sections françaises des conseils, soit publics ou séparés, vont avoir le même pouvoir que les conseils pour fournir des services pour les centres d'enfants dans les écoles.

Aussi, le fait qu'on reconnaît qu'on peut créer des comités spéciaux pour les jeunes avec des besoins différents, qu'en effet les deux conseils à Ottawa-Carleton peuvent tous les deux créer leur comité, je pense que ça c'est important aussi.

C'est sûr que, surtout pour la communauté francopho-

ne, l'école est vraiment un centre communautaire. Donc, je pense que c'est très important, en faisant des changements à la législation, que nous pourrions répondre à leurs besoins et je pense que ça fait du bon sens.

With those introductory remarks, I'll stop at this point and allow comments by my colleagues.

1650

Mrs Dianne Cunningham (London North): Mr Chairman, I've waited, because I thought I'd put a couple of remarks on the record at the very beginning, if you don't mind, starting with the report of the subcommittee. I'll be very brief.

I object to the recommendation the way it's worded—and I want to be on the record; I know my colleagues have already done this: "That the Chair of the committee be directed to write to the House leaders forthwith requesting authorization of committee meeting time on the evenings of Monday and Tuesday, June 14 and 15, from 7 to 10 pm." That, I think, is subject to the understanding that we were denied, by the majority of this standing committee, the opportunity for summer hearings.

I don't know about the other members of this committee, but I know that I certainly, in my critic portfolio, will not be available those evenings. The school communities, the colleges and universities, are extremely busy right now. Most of us have accepted public speaking engagements on into the end of June. I myself will be speaking at Ryerson one of those evenings, and I can't remember where else. I know that the school communities are equally busy right now. I think it's wrong for us to ask them, during the last few weeks of school, to make themselves available, not only the education staff but the parents. We are asking them to be involved in their school communities, whether we're looking at graduation exercises or their participation in sporting events or musical events or theatrical events or school shows.

I see no reason for the rush to finish the deliberations. I'm sorry that the government felt it necessary to put everything but the kitchen sink into a piece of legislation, which only makes myself and others, who understand the urgency around some of the issues that we heard about this afternoon—we understand that, but to throw in three or four new issues that none of us has had an opportunity to research or for the public to even understand they are in here is inappropriate and it's not the way business ought to be done in this building. So I wanted that on the record.

The second complaint I have is that the minister isn't here. I thought that would be appropriate. I think all of us are in the business of learning. Our time is valuable. To listen to the questions of his colleagues in the government and the opposition members I think is extremely important. Some of us have been around a little bit longer than others and we still don't have the

answers to these questions. They're very complicated.

I'm looking forward to asking questions. Because of the timing of what's happening here, Mr Chair—and you can correct me if I'm wrong—I would love to have asked questions around all of the briefing notes we heard on behalf of Ms Lindhout this afternoon, but I didn't think we would have the time to do that appropriately. So my feelings are that we're going to have to have time to ask those questions, and I don't think that should be when we have witnesses before the committee. We need time. There are a number of issues. Some of the technicalities I thought I understood and I think she did a good job of explaining, but I still had a lot of questions, and I've written them down, as I notice my colleagues were doing throughout that hearing.

I'll emphasize to you, Mr Chairman, and to the minister himself through the parliamentary assistant, that when I first came to this building some five years ago, I have to tell that most ministers came before important bills, explained themselves and the position of their government and listened carefully not only to the questions of the other elected representatives but to the witnesses. I have to tell you that I've sat on committees where that's almost been the practice, but certainly not in the last two years, for whatever that's worth.

My comments with regard to the legislation I think are well documented. On Wednesday and Thursday—I don't know why they've got "Orders of the Day, Wednesday-Thursday, April 29"; I guess it was a long day; it probably went into the morning, but I don't recall—there are a number of comments that I made. I'm not going to make them again, but they were made on April 29 in the House when the bill was first introduced, I believe.

With regard to my colleague the critic from the Liberal caucus today and his remarks, I'd only like to add that my understanding is that we are supposed to begin at 5 o'clock with another part of the agenda.

Mr Randy R. Hope (Chatham-Kent): Approximately.

Mrs Cunningham: I know it says approximately, but if I get into the issues right now, I think I wouldn't be doing the people I represent a service, so I'm going to ask you, when we do have the appropriate time, to do that. I know I have questions that will probably take us into, I'm guessing, an hour, and I think it's only fair that we ask them here in front of everyone else and get some clarification.

I'm going to leave that request with you, Mr Chairman. I don't think it would be news to you or anybody else to know that the whole issue of junior kindergarten and special education and child care in the schools is worthy of significant comment.

We certainly heard from the public in many regards with regard to these amendments, especially as they

relate to special education, suspensions, child care in the schools, sick leave credits, junior kindergarten and child care. Then on the other ones, as you related earlier, Mr Chairman, that were truly technical, certainly the municipalities involved have been touch with us.

On that, I just say there's a lot of work to be done. We don't have enough time to do it as per the schedule that's been recommended. I don't intend to sit back quietly and watch this thing be rammed through, and I don't think it's appropriate for the government to disallow public hearings on an issue so important as early childhood education, child care and junior kindergarten. It's never been publicly discussed.

I do know that at the same time we have a commission that is supposed to be looking at issues in education that's been given 18 months to report, which is too long. If we're really serious about doing the right things in this province, we would coordinate some of the issues in this particular piece of legislation with those hearings and make a decision based on careful consideration, appropriate timing and a thorough investigation of the real problems that we face in Ontario today. I call them problems; I used to call them issues.

But I think the issue—and to the parliamentary assistant, through you, Mr Chairman, I have to say that I concur with the observations he made with regard to the emphasis on early childhood education. I don't think any of us have had a good discussion on how this gets done, but piecemealing it and making policy statements in a bill of this Legislative Assembly, putting into law programs where there are no finances to support them or no support of the public because they've never been asked, and now that they are being asked, they're given four nights, is totally irresponsible.

I don't know how we're going to fit this in. I know the House leaders will be dealing with it this Thursday, but it's not our party's intent to go along with this.

Mr Bisson: I'd just like to make a couple of comments on behalf of the government in regard to some of the things that have been said by members of the opposition.

First of all, in reaction to the question about the minister not being here. I think as a member of the assembly and also as a member of the government, I have full confidence in the abilities of the parliamentary assistant. In our government, we have a valued role for parliamentary assistants. Maybe that was not the case when you were in government. I don't mean that in a belittling way.

Mrs Cunningham: I wasn't in government.

Mr Bisson: I have the floor.

Mrs Cunningham: I would have known about it if I had been.

Mr Bisson: But our parliamentary assistants are working in cooperation—

Mrs Cunningham: We wouldn't be sitting here talking about this stuff, I'll tell you.

Mr Bisson: —side by side with the ministers in order to be able to deal with questions of ministries and how they're administered and how they deal with legislation and regulation. I have the utmost confidence in the parliamentary assistant from Sault Ste Marie, Mr Martin.

On the second question, with regard to the sense that the government is trying to ram through something that nobody's ever talked about before under this particular bill, I would point out to members of the opposition that the vast majority, of issues that are represented in this omnibus bill are issues that were recommendations on the part of other bodies, some of them committees of this government, some of them things that former governments have dealt with, as well as things boards have brought to the attention of the ministry.

1700

Mrs Cunningham: Name one.

Mr Bisson: A good example would be the American sign language, the ASL, and LSQ issue. There's a committee that I chair on the French-language education side and that the parliamentary assistant chairs on the anglophone side. Recommendations that have been made for many—

Interjection.

Mr Bisson: Mr Speaker, do I have the floor?

The Vice-Chair: You have the floor.

Mr Bisson: Thank you very much. The point is that when you go through the various portions of this bill, this bill deals with issues that were raised by school boards across the province of Ontario that they wish the ministry to act on. For the most part, that's what these particular sections of the bill are about. As well, the bill also deals with recommendations from various provincial government committees that are dealing with very specific questions, and I raised the issue of ASL and LSQ as one. Is this something that's coming out of the blue? No.

I'll make the third point the last one. I really don't want to get into a political argument here, but there was an agreement of the subcommittee. The subcommittee came to an agreement about how this committee would deal with its business. The agreement of the subcommittee was that the opposition members wanted more time to be able to deal with the presentation of witnesses. The government said: "Fine. We'll move from four to six, but because there are a number of issues that we want to be able to move on, let's do those in the evening. Would you be amenable to that? It would be a way of accommodating the need of the opposition." The opposition agreed. That's what happened.

Mrs Cunningham: In the subcommittee.

Mr Bisson: Unfortunately, what happened is that the

Tory position was flipped once it got to the House leader. Maybe I would ask that the Tory party organize itself a little bit better on subcommittee so that their member of the subcommittee can come into this committee with—

Mrs Cunningham: On a point of personal privilege, Mr Chairman: I'll speak to that in a moment, because both my colleague and I have discussed the difference of opinion. I'm sure the Liberals would feel the same way. The circumstances were totally different.

Mr Bisson: I still had the floor the last I checked, Mr Chair.

The Vice-Chair: Continue, please.

Mr Bisson: There's a point I'm trying to get at. I don't mean to get too strong of a term on this, but the members from the opposition use language very strongly around this building. That is a role of the opposition—

Mrs Cunningham: You don't, of course.

Mr Bisson: —and what ends up happening is that they come into this committee and say that for some reason the government is trying to move something quickly.

I say again that the issues being raised, the 27 or 28 points in this particular bill, are issues that were raised by school boards with the Ministry of Education, that they want the ministry to move on. They're also recommendations on the part of provincial committees. It is not stuff that is coming out of the blue. These are issues that I think most of us would agree need to be dealt with. I would say that we need to move on and get on to this bill so that we can move on to others.

Mrs O'Neill: If I may just comment, first of all, I think it's extraordinary that we're having a set of hearings and there were more requests for time slots before we began than the time that's going to be allocated to this committee. I think that's fundamental. The interest is there and we haven't even had the ad response at this point.

To say that we concurred—we lost a vote. We had to make a decision of the best of the worst-case scenarios, and our House leaders have not agreed. That's the way it works around here.

If I may ask my own questions, I just would like to go to section 11. I did ask this question earlier. Having more time to look at the notes, I wonder if I could have an answer in writing. This is a very fundamental question, certainly for our party and I think for all Ontarians, certainly boards that are not yet into the kindergarten.

There are three paragraphs there, the first one talking about the \$54 million, which I mentioned. Now, \$35 million should be left. I see as I read it that it says, "This is now part of the GLG base." Then I go on to see that there would be a requirement of \$76 million to

do what's needed and then I go on to read that the standard mill rate for all boards would have to be increased by 1.5%.

I guess what I want to know is, is this the policy? Is there going to be some centralized requirement that if boards opt in, all other boards have to pay? If I read this cold blank, that's what it says, and I would like to know where the money's going to come from and how it's going to be obtained to do this, especially when now it's going to be mandated and this bill says it's going to be mandated. I really think we have to have that answer in writing, so I would request that happen.

If I may go to the hard-to-serve, which is the next section, I have a discrepancy. Our research indicates there have been 12 pupils identified as hard to serve in the entire length of time that the term has been used. I think, if I read the first page here of the notes, it says six pupils have been identified as hard to serve. So could we have a clarification of that, please?

I'd also like to have a further clarification, if I may, also in writing, about this caveat that I discussed earlier about the medical, because I want to know—on the first page of section 12, it states there are facilities other than schools where children may be identified, I presume through the IPRC system, that there are other settings: care and treatment facilities operated by Community and Social Services, provincial residential. Will those also be covered, or how will they be funded, especially the care and treatment facility operated by the Ministry of Community and Social Services? Will the service be guaranteed? We know the kinds of cutbacks that are being requested of the transfer agencies.

That concerns me quite a bit. Is it only if you go outside of Ontario that the caveat applies, medicine and education, or, I would presume, some of these particular provincial schools? Often care and treatment in an MCSS would have a medical component. So I'd like to have that clarified, please, and I think we need that kind of an answer also in writing.

My third and last question is on section 8, and maybe someone can answer this verbally right now. Currently, the Education Act permits English and French only to be used as languages of instruction. They are at this moment, and I hope will continue to be, English and French sign language. Is that correct? I want a definitive answer. That's very important.

Mr Martin: That's correct.

Mrs O'Neill: So that will continue to be recognized? It will still be taught in the faculties of education and there will be an option for American sign language? Okay. I think Hansard should note that the parliamentary assistant is nodding affirmative. Thank you.

The Vice-Chair: I believe he did say yes.

Mrs O'Neill: Okay.

The Vice-Chair: I know that it was recorded, so

perhaps Mr Martin will respond to that so it will be recorded.

Mrs O'Neill: Thank you. The child care documents that are presented all seem to me to be those from our administration. Are they still the basis upon which boards and facilities agree? They have been maintained, is that correct? Okay. It seems to be another affirmative answer. Thank you very much, if I may just have those two in writing as soon as possible, and I will accept the verbal on the other two.

The Vice-Chair: Thank you. Is there anyone else before Mr Martin responds? No? Mr Martin.

Mr Martin: Just a couple of points and then I'm going to let the ministry respond to some of the questions.

To clarify re the subcommittee, if I might just very briefly, it was not ascertained at the subcommittee level that we didn't have enough spaces for the names on the list. However, we didn't think the list was complete either and it was my suggestion, and I think accepted, because it's in the report, that it would be good if possible to have another evening of hearings so that we could accommodate some of those people who wanted to come, given the short time lines. It's unfortunate that we can't do that, because I certainly wanted to, and the ministry wanted to, hear from as many people as could come and indicated that they wanted to come.

Also, just so that we can make it easier or more free-flowing here, I'm under the impression the process is that when our microphones are on and we're asked to respond, that's when we respond. Is that correct?

The Vice-Chair: That's my understanding, yes.

Mr Martin: Okay, and when other members are asking questions, we take them on record and then when it's our turn, we would—

The Vice-Chair: Yes.

Mr Martin: Okay.

1710

Mrs O'Neill: Can we have a clarification of what the parliamentary assistant just said about the evenings? Did he say that we basically have presumed that it's not going to happen?

Mr Martin: I've heard from the Progressive Conservative member that she is feeling very strongly that the evening sessions are not something she can participate in and is going to be recommending to her House leader that this not in fact take place. Is that correct?

Mrs Cunningham: The fact is, we've all recommended that to the House leaders. We've all recommended that these hearings take place as required by the number of people who respond to the ads. It's the government that has demanded the schedule. We did not vote in favour of that schedule in committee. The purpose of sending it back to the subcommittee was

clearly to schedule people within the government's mandate. We never agreed to evening hearings. We didn't in this committee. But in good faith, I think my colleague has already stated, we went to the subcommittee meeting to schedule the people who wanted to come before the committee, that was all, and they had to be scheduled in the evening.

I personally cannot be here. If the government is going to insist that we meet in the evenings and insist that we not hear from everybody—the ad just appeared for the first time in the London Free Press today, and that means that people are going to have to get their briefs together and get themselves here. Those people who answered that ad won't even be considered, given the number of names we looked at the other day. What was the point of putting the ad in the paper? When I left the last meeting, I didn't even think we were going to advertise.

Mrs O'Neill: It's just for written requests.

Mrs Cunningham: For written requests. Fine. That's great. That's democracy, is it? That's this open government. This group promised, "We're going to have an open government and we're going to listen to the people," and then they get angry at me?

Interjection.

Mrs Cunningham: It's not rhetoric. If you ask people their opinions and you have public hearings, they should be able to come to the public hearings. There's no rush.

In response to the previous comments, "for the most part" was stated. You're absolutely right, for the most part, but there are two or three issues that don't meet that definition "for the most part" that people want to speak to us about.

All of you are receiving letters. I certainly read the one from the parliamentary assistant's constituent in Sault Ste Marie. You know who I'm talking about.

Mr Martin: She'll be here tomorrow.

Mrs Cunningham: That's lucky for her. Mine just saw the ad in the paper today. Lucky for her.

Mr Martin: You knew about this a long time ago, Dianne. You knew about these hearings. You knew this piece of legislation was coming forward. If you'd been as proactive as I was, you would have had your people here and presenting.

Mrs Cunningham: Mr Chairman, can I ask the parliamentary assistant a specific question? Can I therefore tell the people I met with on Thursday and Friday in my London office that they can come to these meetings even though they haven't been scheduled? Is that your direction to me?

Mr Martin: No, it's not.

Mrs Cunningham: Well, you said if I had been as proactive as you, I could get my people here.

Mr Martin: You're too late now.

Mrs Cunningham: I have been proactive.

The Vice-Chair: Sorry. We're into a conversation. Would you complete your comments and/or questions.

Mrs Cunningham: I'm too late. Too late for who, the government or the democratic process?

Mr Martin: Too late for the process, Dianne, yes, this process.

Mrs Cunningham: Too late for the democratic process as this government sees it, and don't back down on that one, because that's what it's all about. You may take your marching orders, but I wouldn't dare do that with a bill of this significance. And don't try to downplay it either. I'm very angry, and you can tell. The rest of you who can just go home and accept this, you're not doing the constituents or the parents of these children any justice. It is a political argument. It's also an argument of the process.

Mr Chairman, I want to put on the record that I don't think the solutions to the challenges we've got out there are political at all, but I do think that people have the right to come before this committee.

I don't want to be accused by anybody else on this committee saying that we changed our position. We have never changed our position. We were trying to be reasonable and work within the rules of the government, not the rules of this committee. Only the government members of the committee voted for this process.

No one in opposition agreed that we should stop these hearings in four days and evenings. We asked to go in the summer.

That is still an issue before the House leaders, and it may change. We will not withdraw it from the House leaders' agenda, because we are constantly getting more requests. My staff have just reminded me today, I've got two pages of requests. I'm sure the clerk's office will be getting them as well. You tell people they can only write letters, Mr Chairman, that's exactly what they'll do, because they have literally given up on the democratic process.

The Vice-Chair: Mr Beer and then Mr Martin.

Mr Beer: Briefly, I think that one has to understand the feelings with which our colleague from London North has expressed her viewpoint, because there mustn't be any misunderstanding. The clear preference that was expressed by the members of both opposition parties was that these hearings be conducted in the summer so that more individuals and groups could come before the committee.

The government moved a motion which said that we would only meet during this session. That they then voted on, and the opposition members did not support that motion, so in terms of discussing the hearings that are proposed during the month of June, it is, as my

colleague from Ottawa-Rideau said, simply the only option or alternative that is on the table.

We continue to believe that there are some key issues in this bill that require a longer period of hearings, and as the member from London North has said, this is before the House leaders. Presumably they will be meeting on Thursday to discuss this. But I think we have to be very clear that the two opposition parties stated that they wanted hearings in the summer. The government said no, those hearings would be in June. They moved an amendment which they supported and we did not. I think that represents the facts of the issue and that needs to be made very clear.

The Vice-Chair: Mr Martin, would you care to respond quickly, and then we'll move on to the next item.

Mr Martin: Sure. I'd like to concur with Mr Beer's summation of what happened and add that, given that this is the process we have in place, we've all played on both sides of the table at some time or another. We did arrive, by vote of this committee, at a format, and then within that format we tried to find some room to accommodate some more people. I want it to be put on the record that it seems the opposition parties are not in agreement with allowing that extra night so that we could have more people appear, given the limitation to the time we have.

Mrs O'Neill: We have not said that.

Mrs Cunningham: I said I couldn't be there. I didn't say my party wouldn't be represented.

The Vice-Chair: Mr Martin, please continue.

Mrs O'Neill: He's repeating something that's not true.

Mrs Cunningham: It's the second time he's said that.

Mr Martin: If the member from London had been at the subcommittee, she could have at that time suggested that maybe the evening sitting wasn't appropriate because it's not convenient for her.

Mrs Cunningham: I had suggested it all along. You should have been at the standing committee meetings.

The Vice-Chair: Mr Martin has the floor. Please continue.

Mr Martin: At that subcommittee meeting, all members who were present at that time agreed that we would try to get that extra evening so that we could accommodate those extra people. We also all agreed that we would advertise for written submissions, given the time limitations, and that we did want to hear from people, at least in writing, re these important proposed pieces of legislation. Anyway, that's all I had to say.

ADVISORY COUNCIL ON SPECIAL EDUCATION

The Vice-Chair: Thank you. We'll continue then and move on to item 4, a presentation from the Ministry

of Education Advisory Council on Special Education. Would the representatives please come forward and introduce yourselves for Hansard, please. Welcome to the standing committee on social development regarding Bill 4, An Act to Amend certain Acts relating to Education.

Ms Eva Nichols: Thank you very much, Mr Chairman. My name is Eva Nichols and I chair the Ministry of Education Advisory Council on Special Education. In my other life I'm the executive director of the Learning Disabilities Association of Ontario. My colleague here is Margaret Walker and she is a member of council and is past-president of the Ontario Association for Bright Children.

We had a very short notice of this appearance, which is why there are only two of us here out of 21. We in fact did not have a chance to arrange for other members of council to be present, but I can assure you that the comments that we are about to make and the recommendations that you are being given, together with a list of the members of council, represent the work of this council.

Many of you, of course, are very well aware of our council and just what we are about, but in case some of you are not, I'd like to tell you that we are a group that is appointed by an order in council to advise the Minister of Education and ministry staff on all aspects of special education. There are 21 members of council and they represent all the various major stakeholder groups involved in education, and special education in particular: four trustee organizations, the Ontario Teachers' Federation, all kinds of supervisory officers, anglophone, francophone, Catholic, public and so on.

1720

One particular important point that I want to make, because I read recently in a certain newspaper that the Minister of Education had expressed a concern about the fact that advisory groups do not have parent representation on them, is that in this council 25% of the membership represents parent associations. In fact, given that this is my second term for chairing this council representing a parent association, I certainly think we have good parent representation and parent involvement.

We tend to work on items by consensus. If necessary, we'll vote on things.

In terms of our mandate, and I do think this is important, it is regrettable that some of the components of this particular legislation were not discussed with us prior to them being tabled on April 21 in the House. Some components, of course, have been around for ever and a day, and I will comment on those as we go along, but I think there are a couple of issues here where it could have been a very useful way of resolving and alleviating some of the community concerns if in fact

council had been able to advise the minister on just exactly what the issues are. If I may just for a second put on my other hat in terms of the learning disabilities association, I think all of you are aware, because I have corresponded with every single one of you on this issue, that the learning disabilities association has consistently opposed one section of this bill. We have had three meetings scheduled with different ministers of Education—which so far have not taken place—in the last two years, but we do have a meeting with the current minister next week where the number one item on the agenda is the hard-to-serve issue. I just hope that any comments we might make to the minister on June 17 might be of some value in terms of where exactly you as a committee are going to go with this and then where the Legislature goes.

Also on behalf of council I would like to urge you to hear from the various groups and organizations that have put forward a request to present to you. In many cases, parent organizations work very hard and very painstakingly to put together a presentation to a committee like this, and it isn't easy for them to do it, especially for parents who perhaps have difficulties with English or with just putting things together into a written brief; it is much harder than to appear in front of a group of people and engage in dialogue. On behalf of the council I would like to urge you to make sure that there are no families, no parents, no children and no parent organizations that feel that somehow they have not had an opportunity to provide input to these very important deliberations.

Our council met on May 28 and 29, and one of the things we dealt with was Bill 4. The parliamentary assistant who has responsibility for special education and the provincial schools, Gary Malkowski, was with us. He encouraged us to deal with Bill 4 in a particular way, and that seemed to suit us, so we basically focused on four components of the bill, simply because there wasn't enough time to deal with everything. However, it's important that you recognize that we do not think the others are not equally important, but we had a lot of items in front of us and those were the four things we could deal with.

First of all, we looked at the whole issue of American sign language and Quebec sign language as being the languages of instruction in Ontario. When the deaf education review was taking place, our council was involved in an advisory capacity, and we supported at that time the establishment of the pilot project that is going on at the moment at Ernest C. Drury School, the bilingual, bicultural program to replace the signing of exact English or exact French. We had the opportunity of visiting those programs and, based on what we had seen there, we decided to recommend to you that indeed we endorse the decision to make ASL and LSQ fully accepted as languages of instruction in Ontario.

If I may just sort of sidestep to the question that Mrs O'Neill asked, it was our understanding that the impact of this will be that as far as the provincial schools for the deaf are concerned at least, ASL will be the language of instruction and English will be used in terms of the written work and the reading that the children do but not in terms of language of communication. Perhaps we misunderstood that from Mr Malkowski, but perhaps that could be clarified, because I think that is a slightly different interpretation of the question Mrs O'Neill asked.

Our council has spent a great deal of time over this past year and a bit talking about equity and social justice. In particular, we spent a tremendous amount of time discussing and revising the ministry's proposed definition of integration. I know that's not in Bill 4; I'm only mentioning that because the following comments really do relate to that.

Back in January 1986, which was a long, long time ago, when there was a white paper in terms of amending the Education Act and, in particular, the special education components, council and most of the organizations that sat on the council then and now fully supported the decision to repeal all references to "trainable retarded" pupils in the Education Act and anywhere else. Frankly, we have been somewhat impatient about the fact that this has taken such a long time to occur.

I know some of you may say, "In that case, why didn't Bill 37 just go through as it was supposed to?" I will remind you that Bill 37 had the reference to hard-to-serve, and the reason why there was opposition to Bill 37 a year ago was because of the hard-to-serve component, not because anybody whomsoever was objecting to anything in terms of the trainable retarded. We feel very, very strongly that anything that relates to that needs to be redressed such that pupils who are currently identified as trainable retarded can in fact function as exceptional pupils in the same way as any other exceptional pupils in the province.

This brings us to the next section, which is subsection 15(1) of Bill 4, relating to hard-to-serve. Just as a little bit of history that may be of interest to you, in 1980, when Bill 82 was introduced, initially I think the intent was—and if one reads the correspondence between Dr Bette Stephenson, who was then the Minister of Education, and parents' groups and so on, it was clear—that hard-to-serve initially related to care and treatment issues. But the all-party-supported amendment put together by John Sweeney at that time really changed the ground rules, because it went from the pupil being unable to profit from instruction, period—ie, a pupil whom we might describe as ineducable, however awful that term might sound—and became a pupil who is unable to profit from the instruction offered by the board. That certainly narrowed the perimeters in such a way that we were no longer talking about a pupil who

would not benefit from education at all, but a pupil who is not benefiting from the education offered by the board.

Perhaps it would have been useful if at that time the legislation had gone on to say that the board has an obligation to purchase for that particular pupil education elsewhere or to explore community resources or to refer to a provincial or demonstration school, but that did not happen.

I think the thrust to remove the hard-to-serve legislation first arose in 1986 when nobody had used it and I think that perhaps that was because people didn't fully understand just exactly what it was about.

1730

There is no question that it has now been used and that the pupils who have been identified as hard to serve so far—and it is our information that there have been 12, by a number of different boards—in fact are not pupils who in all cases are in need of care and treatment but are in need of very specialized special education services which in most cases are not available at a particular board. In many cases, the pupils who end up being identified as hard to serve have been considered by and have been rejected for admission to demonstration schools on the grounds that their needs are so complex that they could not be programmed for in the demonstration schools or the provincial schools.

That really represents a very different profile than the pupils whose medical needs are so severe that they qualify for and need OHIP-insured services, which is what the particular section that enables the minister to arrange payment for the education of those pupils relates to.

Most of the pupils have been identified as hard to serve to the extent that we know they have had learning disabilities plus a number of other conditions, and I'm sure you all know that in fact the Ministry of Health basically does not recognize learning disabilities, and even attention deficit hyperactive disorder, which many of these children have, is not a truly recognized medical condition for which there are OHIP-insured services.

So, having considered all of that, council began by saying that we unanimously reject this particular section. We felt that simply to repeal it and to remove the kind of safety net that might be in place for families, for children and for school boards simply wasn't appropriate. While we understand the rationale that says school boards are responsible for special education, the very concern that I think has put this forward, which is that there are more families and more school boards looking for "hard to serve," is the result of the reduction of the availability of appropriate special education programs in self-contained programs everywhere.

I'm sure many of you know that the provincial and demonstration schools are currently under review. There

is a proposal that we move from three anglophone provincial schools, three anglophone demonstration schools to one in each case, and inevitably, even if in fact the number of placements for exceptional pupils can be maintained when there is one school instead of three, the public message is still that we are shrinking the services. The thrust towards integration once again represents a way of reducing the range of placement that is available to parents and to exceptional pupils.

We understand the government's concern that section 35 of the Education Act might be used to exclude pupils who in fact can benefit from instruction, although we don't believe that this has happened. But if perhaps there is a lack of trust in school boards using this section appropriately, then it needs to be changed. So we, as a council, decided to take up the challenge that was offered to us, and since we met and during most of last Thursday night, we rewrote section 35.

I have provided to you the complete section 35 as rewritten, but I know there are time limitations so I'm not going to read all of it. But there are a couple of sections that I really want to focus on. I hope that when you are coming to look at possible amendments, you will look at it clause-by-clause.

It was very carefully crafted to really alleviate the concerns about inappropriate use and yet maintain a safety net for students who desperately need it. So we decided and unanimously agreed that the "hard to serve" designation should be changed and it should be described as "an exceptional pupil who, under this section is determined, due to the extent and nature of the identified exceptionality, to be not benefiting from the instruction offered by the board or available for purchase from another board or provided by an appropriate community agency such as a section 27 setting or a provincial or demonstration school."

Because we felt that you might want to know just what we meant by "benefit," we decided to define "benefit" as "the access of the pupil to appropriate special education programs and services that meet the needs of the exceptional pupil." I would remind you that subsection 8(3) of the Education Act currently lays out as one of the duties of the minister to ensure that indeed pupils benefit from special education programs and services as defined there.

The following sections have been rewritten basically to reflect that definition of "hard to serve," and in most cases, other than ensuring that the process reflects the court judgement in the Thompson case, for example, which stated that the way section 35 was originally written was not entirely appropriate, and making sure that in all cases there is reference to the pupil being able to make decisions and participating when that pupil is an adult, which was sometimes there and sometimes not there, and I don't know what determined it before but it should be consistent, the rest of the sections are

very much as they were in the original act. We merely felt that there should be a much greater focus on the benefiting of the pupil from the instruction and that there should be some very definite statements about referral to provincial and demonstration schools and so on.

If you could please turn to page 5 of what has been circulated to you, we have recommended—first of all, as far as the funding goes, we did not have time to focus on that and so we have not recommended a change. However, I don't think that that was the most important component from our point of view.

Secondly, we recommended, and that is point number 19, that "The determination by a school board that a pupil is a hard-to-serve pupil shall not be used to exclude a pupil from attending school." We felt that this was important if indeed the government had concerns that at some point this may be used as an exclusionary tactic.

Point 20 is: "It is intended that the application to have a pupil declared a hard-to-serve pupil shall occur after the due process of the IPRC and appeal of the IPRC determination have been used as legislated, in order to ensure the provision of appropriate special education programs and services for the exceptional pupil, and the school board has provided the necessary support services and appropriate accommodation to meet the pupil's identified strengths and needs."

The reason why we put that there is because we feel that indeed this should not occur right at the very beginning of the process and that school boards should be given the opportunity of meeting the needs of pupils and everybody should do their very best for the pupil. But there will still be some—not many, but some—pupils for whom there will have to be something else that simply isn't available in local school boards or even in the provincial or demonstration schools.

As far as section 15(2) of Bill 4, frankly, we were quite shocked to see the wording there, as a council. We felt that to make any such decision retroactive is a particularly unfair process in terms of families. When families had their children declared hard to serve between June 2, 1992, and now, they entered into an agreement with their local school board and the Ministry of Education in good faith that as long as it was appropriate for their children to be attending whatever facility had been agreed upon, that funding would be provided. To suggest that now that funding could stop and that in fact they may be asked to repay what has been paid from June 2, 1992, just seems a particularly difficult thing to do to families. In many cases, the kind of education that those children are receiving is very expensive, but that has been agreed upon not just by the parent but by the school board and the Ministry of Education as well. To suggest that parents should have to pay back what has been paid out and what they have

accepted in good faith really seems quite unacceptable.

To bring this to a conclusion, there is no question that there is a great deal changing in the whole area of special education. Frankly, as a council, we are very concerned as to just exactly where special education is going to fit into the whole system that is being set up. Just this week we have received from Carola Lane, the assistant deputy minister for education programs and services, this document which is a revision of the Ministry of Education and Training.

I have read this and the words "special education" do not appear anywhere in them. It has not been considered by council because we did not have it in time, but I am sure that the members of council would be quite agreeable to my commenting that we are concerned because, even though there are references to equity and there are disability issues and there are learning outcomes and supported learning, the term "special education" has become synonymous with some of what is the very best in Ontario's education.

1740

One of the things that our council talked about briefly at its last meeting was the fact that an outside group, "outside" inasmuch as it was outside of Ontario and outside of the educational system, looked at the Canadian Charter of Rights and Freedoms and what it guaranteed in terms of education for exceptional pupils. They came up with 10 points, such as the right to attend school and the right to an appropriate education and the right to due process and so on. Then they looked at each of the provincial and territorial education acts to see to what extent they met the requirements of the charter.

I guess the good news is that Ontario in fact came out on top in terms of meeting the requirements of the charter because we have such things as a range of special education placements and a great deal of involvement for parents. Many of the provinces that have already achieved some of what seems to be our current thrust in this province were viewed by these groups of human rights lawyers, constitutional experts and so on as being way down the scale of meeting the needs of children. As a council we feel that while education is not just about exceptional pupils—there are only about 150,000 exceptional pupils in a total pupil population of about 1.8 million—they are a very significant group of youngsters just the same.

We would ask you very sincerely to consider the needs of those pupils when you are deliberating this. We still feel that including the "hard to serve" section in your omnibus bill was perhaps not the most appropriate way to go. But if it has to be considered, please look at the recommendations we have put in front of you in terms of the clause-by-clause amendments and I think you might very well see that in fact those amendments meet the concerns you have and yet will still

assure that exceptional pupils have appropriate special education programs and services available to them in Ontario.

The Vice-Chair: Thank you for your presentation. Ms Walker, did you wish to speak at this time?

Ms Margaret Walker: I'll answer any questions at this time.

The Vice-Chair: We thank you for your presentation. We realize that it is on very short notice that you are here. Questions? Mrs Cunningham?

Mrs Cunningham: No.

The Vice-Chair: Mr Beer.

Mr Beer: Thank you. I recognize the time frame, so I'll keep my questions short to allow others to ask questions as well. Let me, first of all, say welcome to the committee, and even though it was short notice, as always you have provided us with a great deal of food for thought.

I think I would want to say at the outset that in terms of the specific proposal you make to ensure that is discussed, we will bring that as an amendment to the bill. I would only hope that when you meet with the minister—you'll be meeting with him before we do clause-by-clause—perhaps you can persuade him of, if not this amendment, at least meeting the particular concerns you have. I think that would be acceptable to everyone. So we'll make sure that this is brought forward as an amendment to the bill.

I want to be clear, and I think just for everyone, in terms of understanding the need for this kind of change and for its protection, one of the questions that always comes up and is in the background material is that there aren't many people or many youngsters who have been identified as hard to serve. You mentioned in your remarks that the importance of this is, if you like, as a safety net and that without other kinds of protection, people in the various groups that make up your council just feel it is very important that if it's going to be removed, something else has to take its place. There has to be a process that is seen to be clear and fair.

Can you just elaborate a bit on that because I think some might argue, if there were only—whether it was 6 or 12—aren't there other ways of dealing with this. But clearly, you feel no, this protection is essential even if it is only utilized on a few occasions.

Ms Nichols: I think the reason why we feel so strongly that you need to have this kind of a safety net is that in many cases the youngsters we are talking about here are the most vulnerable ones, the ones who have a complex set of difficulties. Our school boards in fact are quite capable of meeting the needs, especially when they do have a full range of placement options available, either provided or purchased, of the majority of exceptional pupils. I don't think that there is any question. Whether there is enough money and so on,

that's a different issue, but that's not what this is about.

But there are just some youngsters whose needs are really extremely complex. It is their misfortune that in many cases they are bright, they are certainly capable of learning, but they need perhaps a one-to-one instructional mode or they perhaps even need two adults because of certain behavioural problems that they have. If you put that into context of the current economic reality—I only had a very brief moment today to look at this new framework for the Child and Family Services Act that Mr Silipo has just sent out, but last week I was at the Ontario Association of Children's Mental Health Centres annual conference where they are talking about setting up something in terms of providing better education for the kinds of very, very needy children they are dealing with, the reality that the Ministry of Community and Social Services is pretty much unloading children until they are dangerous. A very sad comment that I heard, but parents were actually laughing at this in the kind of way that parents will sometimes laugh when things are not funny, "Maybe you better tell your child to set your house on fire, because then they are dangerous enough to get services."

Obviously that is not what anybody wants but I think that many of the children who are involved in the hard-to-serve process do have some needs which need to be met on a much more unusual basis than most of our school boards can do it. I think about two or three cases where I have been involved as an advocate in terms of hard-to-serve pupils, and indeed they have been the ones, for example, who have been in some cases suspended almost for a whole school year, the ones for whom you are saying, rightly so, that there should not be suspensions more than 20 days.

I can think of one particular young man who is indeed attending a very, very highly structured program at the moment at government expense, an educational program, who in fact had been suspended month after month, just coming back long enough to be back in so that he could be suspended again, and he had been in a treatment centre and he had been in a children's mental health centre. The school board, I think with genuine goodwill towards this youngster said: "We have tried everything that we know how. We cannot set up the kind of structured, one-to-one instruction program that this particular young man needs." It's that kind of a youngster that we can't afford to say: "Well, okay, we are meeting 99.9% of needs. The 0.1%, if they fall through the crack, if they fall off the end of the truck, it doesn't matter."

I know people always say that it is very dramatic to talk about what happens to youngsters like that, but I'm sure that you all have seen the statistics around adolescent suicide and adolescent mental health problems and adult mental health problems and you have certainly all seen the statistics around youngsters who don't get good

special education and their involvement in the criminal justice system.

I would put it to you that whatever it costs the government of Ontario to pay for an appropriate education for such a youngster, it's cheaper than one year in prison, and I'm not trying to overstate the case because I think we know just exactly what the profile of people in prisons is today. I think that is the kind of situation that we can't afford.

1750

Mr Beer: Just a second and last question, which relates to the context within which we are discussing these changes. I'd be interested in your understanding of what is yet to come in terms of special education changes, because there has been a lot of discussion that there would be another piece of legislation. There was the consultation document in I think 1992 which we haven't seen.

What is your sense of what is still to come? What concerns do you have about that in terms of other issues that have been raised around special education? I'm thinking of the IPRC process and other things. I think we need to know that or have some sense of it in dealing with these changes.

Ms Nichols: It is our understanding, and this is purely based on indirect information that we have received at the council and also individual groups that are represented on council, that a great deal of what is to come for the next little while at least will be done by regulation or by policy memoranda.

For example, I understand that either the back end of last week or this week there is a cabinet submission on the integration policy, the new definition of "integration," and the requirement that school boards in fact move towards a much greater integration of exceptional pupils than has been in place in the past.

It is true that the regulations are not changing and that regulation 305 still contains all the components of regulation 554 in terms of the IPRC process. In practice, what is in fact happening is that many school boards are saying, "That is what is in the regulations but what we have to do is quite different." That's point number one.

Number two is that certainly there is the whole review of the provincial and demonstration schools. I have not heard that there will be any legislative backup. It is more a sort of reorganization of process in terms of just exactly how many schools and whom they will serve and how they will serve exceptional pupils.

Certainly on December 10, 1992, Mr Silipo, who was then Minister of Education, met with our council and responded to our very strong urging around the IPRC process that indeed the IPRC monograph, which is the ministry's sort of informal backup to regulation 554 or 305, whichever way you want to look at it, should be sent out to school boards again prior to the beginning of

the 1993-94 school year in order that they can be very clear-cut as to what their mandate is.

The staff of the special education and provincial schools branch, which is what is still in place, felt with quite a bit of justification that should be revised. One of the tasks in front of our council recently has been to revise that monograph. Our hope is to have it back to the ministry by the end of June so that indeed it can go out in September.

We have been told that the IPRC process in its current format will continue at least in the short term. The short term, in terms of work, has not been specified. What we are telling parents, as all the various groups that are involved, is that for the moment the legislation stands, and other than what is being looked at in terms of the hard to serve, the process of providing for exceptional pupils is not being changed in law. But what is actually happening within the school boards and within the classrooms is really very, very different.

I think the concern that we all have, every one of us who sits around that council table, whether we are trustees or whether we are superintendents or whether we are parents, is that there are more and more students who don't have access to a full range of special education options and that the narrower the available options are for a student, the less likely it is that a student with special needs, whether those are developmental disabilities or giftedness or anything else, will really be met appropriately.

Mrs Cunningham: Mr Chairman, I guess we've got five minutes or something. Is that how it works? First of all, as always, I'd like to thank you for coming before the committee. I'm disappointed you heard me ranting on about process, that the ministry itself wouldn't have met with you with regard to these amendments before tabling them. Sometimes we wonder why we give our valuable time as parents on advisory committees. I'm the mother of a disabled young man, so I know exactly what goes on in the system and have certainly been around during all the hearings on Bill 82.

I think we made major gains, but I think, if I can ask either of you, do you think that, this bill aside, we should be looking together at how we can meet these special needs, either within the Ministry of Education and Training solely or with the Ministry of Community and Social Services programs?

The statement that you made with regard to early intervention is extremely important. If we could start all over, how should we be doing this? Is it still correct to stay within the school system with the special education advisory committees, which are functioning in some boards better than others, which we should have some discussions about, and the IPRCs, which again are functioning in some boards better than others? Where do we deal with this, I think, challenging problem of trying to place our young people, either within school

systems or outside of school systems? Where do we start, now that we've got some precedent to work on?

Ms Walker: I guess I've always felt that out of Bill 82, the two most important parts were the parental involvement in the IPRC and the parent association involvement in these special education advisory committees. I really do believe, and certainly this government has been talking a great deal in terms of partnerships, partnerships with parents and with the community in education, and I believe that still is going to be the main focus that we have to do.

But we have for so many years been talking about interministerial workings together, not only Community and Social Services but Health and many of the other ministries working together with Education so that all of the support services are there. I recollect a number of studies that have come out and reports that we have all responded to over the years in terms of how we should be working together, and it's always very disappointing when we seem to respond and there's nothing more that comes forward.

Maybe it would be nice to say we could start again, but we can't. We have to carry on from where we are. So we will need to have really very specific partnerships amongst ourselves as parents and as educators, but we have to have a much broader group of people in that partnership, and they will continue to be in Health and Community and Social Services and all of those other agencies out there that can support our children. But it takes a lot of dialogue. It certainly takes a lot of time to discuss and to do this correctly.

I guess, going back to Mr Beer's comment around the hard-to-serve and not many numbers, it probably is a response and a reaction to many of our parent associations, because as parent associations we don't go lightly into asking parents to go and ask for more support and services for their students within the school board. We talk to them about what's been tried. How many times have they talked to people? We don't do it lightly.

When we're talking about these hard-to-serve children and these other ones that we need the interministerial work to go around that together, we've done a lot of work with the parents prior to that, and with the boards of education and with all of the other support services throughout. It's dialogue, it's discussion, it's knowing where else to go, and when we begin to cut off and make things so very restrictive, then our children will suffer; and when we're not talking about children in education, we've missed the boat.

Mrs Cunningham: Is your hope then to deal with your amendments in the context of the program in the schools with the minister? Is this what your plan is?

Ms Walker: In which, the hard-to-serve?

Mrs Cunningham: Well, yes, the revisions of

section 35. Is this what you're going to be discussing with the minister?

Ms Nichols: The meeting will be with the learning disabilities association rather than the advisory council, and the issues that are on the agenda for discussion are the hard-to-serve and what is going to happen with that and the proposed integration policy and just generally, where are we going with special education in this province?

One of the things that we will certainly be addressing, and it's already in direct response to what you were asking, Ms Cunningham, is the whole issue of prevention. There have been some very good documents that have come out from the Ministry of Community and Social Services in some past years around children first and investing in children and so on that put forward a very good model for primary, secondary and tertiary prevention. I'm truly disappointed that it seems that we are saying that, because of the current fiscal circumstances we find ourselves in, prevention is not going to be as important as crisis intervention.

Obviously, if you have to choose, you deal with crises. That is obvious. But I think that in the long run, as a society, if we can't ensure that we maintain a preventive mode for vulnerable children, then the kind of sort of legacy that we leave to our children—and I know this sounds very poetic—is really going to be a lot less effective and less appropriate than we might have wanted to do otherwise.

Mrs Cunningham: Don't you find it interesting that we're looking at a commission on education, asking parents and the province in general to respond, and at the same time we're dealing, in a separate piece of legislation, with regard to this whole issue of special education dealing with hard-to-serve pupils in isolation from each other?

Ms Nichols: Certainly we as a council and at the learning disabilities association as well have repeatedly asked that the hard-to-serve piece of legislation should be considered together with any reviews of the IPRC appeal tribunal process, because we believe that's where

it belongs. It is also a continuum where you do as little intrusive intervention as you possibly can at the beginning and then you end at the very end with the hard-to-serve for those very few who really don't benefit from anything else. But it just seemed that wasn't to happen.

We certainly had met with ministry staff on several occasions, asking if they would please take that section out from 37 initially and then from the omnibus bill, because I think that many of the concerns that you will hear from people who will come after us in these witness chairs will relate to that. Because there are many parents—not in the total scheme of things, but a number of parents—who are very concerned because they feel that if a system which has been built up so that it can be so good as our special education can be dismantled bit by bit and some of it made retroactive, then where do they have their faith in the system? I think that should be a concern to all of you who are members of the Legislature, that people should have faith in the system that is available to them.

The Vice-Chair: Mr Bisson?

Mr Bisson: Unfortunately, there's not enough time. We're past 6 of the clock.

The Vice-Chair: Did you wish to speak, Mr Martin?

Mr Martin: I just had a couple of things. Usually in the committee, when we have a shortage of time we try to spread it out so that each caucus gets a chance to ask a question.

The only comment I would make is that I appreciated all of the information that you gave us and the challenge that you put in front of us and certainly agree with you that prevention is very, very important. That's why we're putting so much emphasis on JK and child care in the things that we're doing at this point in time, because we see it as key to any prevention program down the line. That was all I wanted to say and to thank you.

The Vice-Chair: Thank you for your presentation. The committee is adjourned.

The committee adjourned at 1804.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- ***Chair / Président:** Beer, Charles (York North/-Nord L)
- ***Vice-Chair / Vice-Président:** Eddy, Ron (Brant-Haldimand L)
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- *Cunningham, Dianne (London North/-Nord PC)
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- Owens, Stephen (Scarborough Centre ND)
- *Rizzo, Tony (Oakwood ND)
- *Wilson, Jim (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Owens

Also taking part / Autres participants et participantes:

Lindhout, Julie, director, legislation branch, Ministry of Education and Training

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Tuesday 8 June 1993

Journal des débats (Hansard)

Mardi 8 juin 1993

Standing committee on social development

Education Statute Law
Amendment Act, 1993

Comité permanent des affaires sociales

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation



Chair: Charles Beer
Clerk: Douglas Arnott

Président : Charles Beer
Greffier : Douglas Arnott



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A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 8 June 1993

The committee met at 1543 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Resuming consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Good afternoon, ladies and gentlemen, to the standing committee on social development on Bill 4, An Act to amend certain Acts relating to Education, now in session. The first item is the Ontario Secondary School Teachers' Federation. Would the members come forward, please. Sorry, just a moment.

Mrs Yvonne O'Neill (Ottawa-Rideau): Mr Chairman, as that's happening, could I please ask for another clarification. I asked questions about section 8 of our binders yesterday. This is about the American sign language and the Quebec sign language. Since that time I've been informed by what I consider two very reliable sources that the answers I was given were less than complete. I'll leave it at that. I would like to have, therefore, in writing what the outline on page 8 really means, that we will be offering instruction using these two sign languages—and I have to presume that's ASL and QSL—where numbers warrant.

My question is, first of all, what are the criteria of "where numbers warrant"? The second question is, is the sign language that is in existence in the Ontario schools today, which has a French and an English written and read form, still going to be a viable option in the schools of Ontario where the numbers don't warrant?

I'm sorry that I'm being persistent, but this is a very important question to every school board and board of education in this province and to the parents of the deaf and hard-of-hearing. There is a great deal of controversy still over this issue in this province. I know there was an advisory committee, but we need the answers in writing.

The Vice-Chair: Mr Martin, do you wish to respond?

Mr Tony Martin (Sault Ste Marie): Sure. We can get that information for you, and will, because we certainly want people to be as clear as we can on these issues. Certainly, the introduction of QSL and ASL is something that's very dear and near to the hearts of the deaf community out there. It was something that was discussed very thoroughly through the Review of

Ontario Education Programs for Deaf and Hard-of-Hearing Students. In fact, all of the people, the stakeholders out there in Ontario who sat on the deaf education review, which actually happened under the purview of your government—

Mrs O'Neill: It was begun under our government.

Mr Martin: No, actually it ended before we got here. Recommendations were made. In those recommendations was a bill that came forward under the sponsorship of Richard Johnston as a private member's bill to have ASL and QSL recognized as a language of instruction. All of the members of the various stakeholder groups signed off on that, because they didn't see it as a threat. They worked on the language and got a language that they felt they could live with. I think one of the key elements in that language was as a language of instruction, so that areas that got into it had some room to make sure that it was being used as appropriate.

I'm chairing, as you know, a deaf advisory committee to the minister on this particular issue, how we introduce ASL into the school system in Ontario. We're still wrapping up a final report to the minister around how it will be introduced and then some indication as to how it will evolve. However, before we can really do that, we feel very strongly, and the deaf community particularly feels very strongly, that it needs the security that legislation will provide, that we will in fact do this and that other governments will not renege on that decision. But we will get you that information in writing.

Mrs O'Neill: The possibilities of option are very important in the report I'm requesting. Thank you.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION

The Vice-Chair: Now to the Ontario Secondary School Teachers' Federation. Sorry for the delay. Would you introduce yourselves, please, when you sit down. We'll have approximately a 20-minute presentation, to be followed, if there is time, by a few questions. Welcome.

Mr Bob Garthson: Thank you. My name is Bob Garthson. I'm vice-president of the Ontario Secondary School Teachers' Federation. Beside me are Lynn Scott—she'll be speaking a little bit later—and Larry French. We're pleased to be here today and to have an opportunity to speak before this very important committee.

You have a brief in front of you. Just by way of introduction, I want to say that given the financial crisis, as established by this government, priorities should be clearly established. All new programs, such as junior

kindergarten, should be carefully considered and properly funded by the province. Given the clear and recognized need of special needs students, no action should be taken which would compromise this priority.

In section 1 we've indicated our support for the change in the term, as outlined here, to "exceptional pupil with a developmental handicap."

In section 2 we have a specific recommendation. It's recommendation 1 in our report, that when school board boundary alterations result in the transfer of pupils and/or schools, a joint committee of ministry, employee and employer representatives be struck to negotiate necessary adjustments.

We've indicated some comments on the limit on school suspension, in recommendation 2, that section 12(1)(1.1) be amended by deleting the words following "principal" and the following words substituted: "not exceeding a period determined by the board."

We've indicated our concerns with expulsion in recommendation 3, that subsection 23(3) of the Education Act be amended by the addition of the words "teachers or board employees" following the word "pupil." The new subsection would read as follows:

"Expulsion of a pupil

"23(3) A board may expel a pupil from its schools on the grounds that the pupil's conduct is so refractory that the pupil's presence is injurious to other pupils, teachers or board employees, where...."

1550

In section 5, dealing with notification of conviction, our recommendation 4: That section 28(2) be amended by the addition of the following sentence, "The Minister of Education will not cancel the certificate of the convicted teacher if the conviction is under appeal."

At this time I would like to introduce our second presenter, Lynn Scott. OSSTF is a member of the Ontario Coalition for Equity in Education, a province-wide group of parents and educational associations. The Ontario Coalition for Equity in Education is dedicated to maintaining a universally publicly funded education system in Ontario. Lynn is here to speak on behalf of the coalition, whose position on the issue of the hard-to-serve student designation, OSSTF supports.

Lynn is also the chairperson of the Carleton board's special education advisory committee and is the past president of the Carleton council of parent school associations. I am most proud to have a parent as a member of this delegation. I would turn to her.

Ms Lynn Scott: I am very pleased to be able to be here today representing the Ontario Coalition for Equity in Education, as undertaking a joint effort here with the Ontario Secondary School Teachers' Federation to bring some of our concerns to your attention. Very specifically, we are extremely concerned about the proposals to remove the provisions for hard-to-serve students from

the Education Act.

We recognize that this provision in the act is not commonly used by boards of education. However, we believe very strongly that there is an ongoing need to maintain such a provision because of the nature of some of the pupils our boards of education have to serve. As president of a parent association in my own area and as chairman of the special education advisory committee, I have had occasion within the last six months to hear parents pleading for help in finding a suitable placement for their children outside of the public school system.

The reason that parents need this help is that we're not talking about the usual range of special needs here. We are talking about children who have been rejected by the health care system, who have been rejected by the social services system, and in some cases who have been involved in activities that, were they adults, would have put them within the confines of the penal system.

However, these children cannot be rejected by boards of education. Boards of education are required to serve them to the best of their ability and sometimes make extraordinary efforts to do this. Nevertheless, we have cases where students with severe aggressive, violent behaviour, because of mental conditions or physical handicaps or all of the above in combination, injure other students or are potentially capable of injuring other students, and may require several full-time staff assigned to them simply to keep them from harming themselves and others, and at the same time the services of a teacher to provide them with education. We believe that this is a burden financially and logistically which boards of education should not be required to bear alone.

The province, under the terms of the act, does provide for funding for placements. There are special rules so that no child, no family will be forced to put their child into a placement. The same provisions of appeal through a special education tribunal apply, as apply to other types of special placement, so that it cannot be accessed without a considerable degree of investigation of the need and the availability of program within a board, and the agreement of the board and the parents that such a placement is necessary. But we're talking of a lot of money for individual boards, particularly boards in the north and in remote areas.

We feel very strongly that unless and until there is a clear requirement on the health care system and other social services in this province to share the responsibility for these children with boards of education, the hard-to-serve provision should be maintained.

Mr Garthson: If I could just conclude then, recommendation 6 which OSSTF has put forward in support of Lynn's comments is that sections 15 and 16 of Bill 4 be deleted.

That ends our presentation, and we'd be pleased to

respond to any questions or comments.

The Vice-Chair: Thank you very much. Questions at this time?

Mr Charles Beer (York North): Could I just ask, Mr Chair—I know we have a time problem—how much time do we have left for questions? I'm quite prepared to split it among the—

The Vice-Chair: I think one question each.

Mr Beer: Okay. My question—there are a number, but just one, if I may—is with respect to the hard-to-serve. Have you had a chance to look at the proposal yesterday that was made to us by the advisory council on special education? They proposed an amendment to 15, with arguments certainly along similar lines and expressing the same concerns that you had. I just wonder whether you have seen it. I'd be quite happy to give you mine; I can get another copy. If you haven't seen it, it would be useful for the committee perhaps if you could have a look at it and see what thoughts you had about it. It dealt with the similar issues, and I take it from the way heads are nodding that perhaps you haven't seen it.

Ms Scott: We have not seen it.

Mr Beer: I believe the council had only drafted this late last week, but I think it would be very useful for the committee if you could have a look at it and I will pass it on and end my question.

Mr Gilles Bisson (Cochrane South): Will we go by caucus?

The Vice-Chair: Yes. Ms Cunningham, please.

Mrs Dianne Cunningham (London North): Thank you very much for coming forth this afternoon and giving us these recommendations for consideration. I have a very short question and then I'd like to ask—maybe you can answer them both at once. First of all, I'd like to know if you were consulted by the government with regard to this bill at all, Bill 4, at any time with regard to the changes, and especially with regard to sections 15 and 16, which affect both our elementary and secondary schools. That's my understanding.

Mr Garthson: I'd ask Larry to respond to the consultation process. Then Lynn may want to say something about that specific one.

Mr Larry French: Actually, we've tracked the bill through its various migrations and names and we have had consultations with the Ministry of Education on several aspects of the bill, finding out about process and sharing concerns on some of the areas that we're sharing concern with right now.

Mrs Cunningham: Could I ask you how you feel about the bill as it exists, the Education Act as it exists, with regard to the hard-to-serve students and if you in fact would offer—you've offered that the bill remain the

same is my understanding, that the act remain the same. I'm wondering if you had given that some consideration with regard to further direction, either through the regs or the act itself, with regard to hard-to-serve students, given your experience with special education advisory committees at the secondary school level.

Mr Garthson: Lynn, do you want to respond to that first?

Ms Scott: Well, I'll do my best. As far as the consultation at the special education advisory committee level within the individual boards is concerned, I cannot speak for the whole province. However, in Carleton certainly we have been following this and the legislation relating to the removal of the trainable retarded designation ever since it first became public.

The issue is very difficult as far as section 35 of the present Education Act is concerned because it is not used very much. It is not a well-known act, and we find, consulting with people and other SEAC members in other parts of the province, that they also feel that even among their own staff and regional ministry offices, this section is not well known or understood as it stands. Nevertheless, I have not heard any suggestions for changing it as much as suggestions to make better use of it as it exists at present.

1600

Mrs Cunningham: You didn't pass judgement on the retroactivity of the existing legislation. Do you have anything to add in that regard?

Ms Scott: My understanding is that essentially no pupils have been designated hard to serve since that date, simply because of a concern that parents or boards of education or both would be jointly stuck with the cost of whatever provisions were made subsequent to June 1992. That is certainly a concern because there are children out there now with need for placements and they are not being adequately served.

Mrs Cunningham: So what happens if it passes?

The Vice-Chair: Thank you. Mr Bisson, please.

Mr Garthson: I wonder if I could—I think it's a question of a general nature that I could respond to.

The Vice-Chair: Yes.

Mr Garthson: While we have had contacts with people within the ministry on specific items, I represented OSSTF on what was the Learning Programs Advisory Council, which is now defunct, and there is no real formal process for consultation with the government any longer on many educational issues. That included, of course, the consultation on special education that was part of that structure, but there are many, many other areas. So while we have had discussions with the minister's staff and with the ministry on a number of items, the former role—however imperfect LPAC was, at least it gave us a format and a voice. We had hoped that something better would be constructed. Instead,

really nothing has been constructed. That's been true for the whole year, and that creates a serious problem.

Given all the changes that are taking place, all the issues that are out there, it makes it difficult to have an organized consultation process when we often don't find out about a meeting till three or four days before the meeting is set, and sometimes the meeting is cancelled and we don't know about that till we get there. So it has created some serious problems in a number of areas.

The Vice-Chair: Mr Bisson, please.

Mr Bisson: Just a short question: You make a recommendation under section 12 of the bill, one that deals with suspensions. You don't speak about it and I'm wondering if you can clarify. What do we do? Are you in agreement that when a suspension is issued, the student not be allowed to return even during the time of appeal? What are the thoughts of the OSSTF on that?

Mr Garthson: Larry, do you want to start on that one?

Mr French: On the suspension and the appeal function?

Mr Bisson: Yes.

Mr French: We do support that, Gilles, the fact that the student remains on suspension despite the appeal, because it's felt that some of these situations are very, very tense, very difficult to manage, and if the student is left back in the setting after a suspension has been imposed and is put right back in during an appeal, it's very, very difficult. So I think this protection for the school setting is necessary, and that, I think, is a wise provision. It's in the act right now. It's the way the act reads right now.

Mr Bisson: I take it, if I read this correctly, you're opposed to the limitation of 20 days and you want to leave it within the purview of the board itself.

Mr French: Right.

Mr Bisson: Can you give a little bit of the rationale on that? Because it seems to me that different boards, even in the same communities, will deal quite differently with suspensions. How do you balance that off?

Mr French: No, it's quite true and I think it's individual board policy now, but they look over each other's shoulder and they can't get too far out of line one from the other because obviously the public realizes that. There are very few boards now that use longer suspensions, but as we point out in the brief, it's a less legalistic form of diffusing a very difficult situation in some cases, sometimes involving violence, sometimes involving drugs and so on, but very difficult anti-social behaviour.

If you go the expulsion route, then you're under the Statutory Powers Procedure Act and everybody's got a lawyer. The board's got a lawyer; the student's got a lawyer. Boards do it now and then, there's no doubt

about it, but there's a lot at stake. If the student beats the board, you know, it's a big thing. Then again, you've got to have the board hearing to get back in. So it's quite a powerful thing, this whole expulsion thing.

The theory of these boards is that if you suspend, it's less of a dramatic sanction, and then at the end of it all there is no legalistic stuff to go through. The student can be readmitted with the consent of the principal or whatever, retimetabled and that sort of thing. That's the thinking behind the longer suspension, where it's used.

Mr Garthson: I think it's important that when you're dealing with these situations, there are so many local considerations, specific, that it's very difficult to make a general rule that's going to be in the best interests of everyone. If the responsibility of the school is to provide a learning environment for all, if you have a situation that doesn't quite fit the norm, you want to make sure that there's flexibility on the part of those people who have the knowledge and the understanding of the specifics of the case to be able to make the right kind of judgement, and that's our concern.

Mr Bisson: I take it I'm out of time?

The Vice-Chair: Yes, sir.

Thank you for your presentations. We appreciate your coming this afternoon.

Mr Garthson: Thank you very much.

SUZANNE GREMM

The Vice-Chair: The next deputation to be heard is Ms Gremm and Mr MacDonald. Please introduce yourselves. You have approximately 15 minutes for a presentation and possibly questions following.

Ms Suzanne Gremm: My name is Suzanne Gremm.

Mr Lyle MacDonald: My name is Lyle MacDonald.

Mr Eddy, Vice-Chair, members of the standing committee, I am here today presenting on behalf of Suzanne, mother of 13-year-old Brian, a very normal-looking yet severely learning-disabled and troubled youth. This is a very emotional issue for Suzanne and she wishes to have presented to you her concerns re the proposed repealing of the "hard to serve" provision as outlined in Bill 4.

Just yesterday, June 7, 1993, after four long years of struggle and after the complete academic, behavioural and emotional breakdown of Brian—he had become depressed and suicidal after years of failure in school—Suzanne was finally able to present his tragic case before a "hard to serve" committee in Sault Ste Marie. We flew here immediately after that meeting.

Brian's future depends on the decision of that committee, which I am confident will be a "hard to serve" designation. The future of that decision, though, depends on the outcome of the government's deliberations regarding Bill 4's proposed repealing of section 35 of the Education Act. It is for this reason that we

stand before you today and ask that you hear our requests.

You have before you a picture of Brian. We believe it is important that the committee be able to put a face to the name, that the presentations you hear today reflect the human equation of that which we are discussing. There's also a poem that Brian wrote in October 1992, just prior to his breakdown which necessitated him being put under psychiatric care for a while. I think you'll see by the content of that poem that this is a very troubled boy.

It may well be words on paper that we're talking about here today, but in reality we are talking about handicapped children who may not look handicapped but none the less they are, in our case, a child of normal intelligence but with severe learning disabilities. Their very future depends on the recommendations of this committee.

We would hope that you have taken the time to read Suzanne's May 21, 1993, correspondence, which Mr Martin was so kind to distribute to the committee members, so that you might better understand the four-year nightmare—and that's exactly what it has been—that she lived, and so that you can better appreciate her point of reference, the parent's point of reference. Suzanne is a single parent, and to live through the types of things that she has lived through with her son can be quite traumatic and difficult for all parties.

As a parent of a severely learning-disabled child, Suzanne can speak from personal experience of how even a large school board was unable to meet the many needs of her handicapped son, needs which for years, I might add, were unidentified and, once identified, were not able to be addressed within the continuum of placements offered by that particular board of education.

I think that's an important thing to keep in mind, this idea of a continuum of placement options. The options that were available to that school board and to her particular son ranged from five hours' home instruction, which means the boy would not be attending a school and would be at home all day by himself, to get five hours some time in the evening, all the way up to a demonstration school, which really is institutionalization. I think we need to remember that in the field of mental retardation, we are deinstitutionalizing individuals.

In the area of psychiatric care, we are talking about deinstitutionalizing individuals, yet in education a viable option for students with severe learning disabilities is to send them hundreds of miles away from their homes, especially if, as in the case of Brian, they live in northern Ontario, and institutionalize them in a demonstration school. How does that help the emotional needs of a child who is already emotionally strained? It's perceived as punishment for failing at school; there's no family support—a very difficult situation.

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Suzanne's only recourse to ensure that her son received the education he so desperately needed, and which is his right, was to access the process of independent review provided for by section 35 of the Education Act, the "hard to serve" process. We would like to emphasize the idea that this is an independent review that is available. All the other provisions in the Education Act involve reviews by staff of the boards who have vested interests, and we all know that often systems are not able to step back from a situation and acknowledge that maybe they can't do the job necessary. The "hard to serve" process, on the other hand, brings in people who are not employed by the board, who are independent and know nothing about this particular pupil.

I think too it's important to point out that in the explanatory notes from Bill 4, when it describes hard-to-serve pupils, "These pupils will be governed by the same provisions that apply to other exceptional pupils," it makes it sound as if "hard to serve" is some sort of clinically defined exceptionality. That's not the case. It was to apply to all children of any exceptionality. It is a process, a system to just determine whether or not children can profit by the instruction that is available from their particular board of education.

Bill 4 is saying, let's get rid of an entire process, not just a designation. It's not a clinical designation, it is a process, and it's somewhat akin to throwing the baby out with the bathwater, I think. As such, Suzanne, as a parent, is obviously seriously concerned about the proposed repealing of these provisions. The elimination of those legal provisions which allow parents of children like Brian to seek out, if need be, independent placements which can provide their children with the basics of education and have that education paid for by the government, which we believe is the government's moral responsibility and duty, to have that eliminated is unconscionable. That may seem like a strong term to use, but it would not seem that way if it were you or I who had to deal with a child so distraught over his inability to learn that he repeatedly expressed that he could see no reason to continue living. This is a 13-year-old boy who wants to commit suicide.

Suzanne Gremm lived that nightmare for four years. I am sure we all sympathize with her and other parents dealing with similar situations, but I am equally sure that unless we have personally been there, we really cannot empathize with those parents. All we can do is be supportive. Section 35 of the Education Act, as it now stands, provides some of that support.

All of us here today must recognize and openly acknowledge the limitations of some boards of education, especially in rural and northern communities, their limitations to accommodate the severe and unique needs of some exceptional children. The government must

continue to accept the responsibility of not allowing any child to slip through the educational cracks in the system.

Section 35 of the Education Act serves to plug up some of those cracks. Instead of eliminating the "hard to serve" safety net, it must be retained and the government must ensure its availability, as was originally intended. If anything should be done, the government should direct Ministry of Education officials and boards of education to not resist parents attempting to use a legislated right.

In Suzanne's case, after four years of struggling with her son and then finding out that this process existed, it took repeated written and verbal requests to her board of education. She had to seek legal advice and she had to threaten court action against her school board before it would appoint a "hard to serve" committee. I think this is a sad commentary when we have a common goal of helping the children.

The school board communicated to her that her son was not eligible for a "hard to serve" committee because he was not severely mentally retarded, and I think we all know today that those provisions apply to all children with identified exceptionalities.

As a parent of a severely learning-disabled child, Suzanne would ask the standing committee to acknowledge the existence of special-educational-needs children, such as the one we are describing, by recommending that section 35 of the Education Act at the very least not be repealed. It needs to be strengthened. There needs to be some accountability put in it to ensure that school boards allow parents access to this independent review.

We would also ask that the government acknowledge the existence of children with exceptionalities so unique and needs so great that boards of education are not always able to respond in a manner which will benefit the child. The government must recognize and continue to support, through section 35 of the Education Act, that sometimes the most appropriate education for a child may be available through an independent school, and this should not be seen as a negative thing.

Purchasing services from established independent schools with proven track records in helping severely handicapped children profit from education, which for some of these children is for the very first time, is an option, an avenue, currently available to the Ministry of Education. We think there is no disgrace in recognizing the limitations that sometimes exist when a board of education, despite its best efforts, encounters children who do not respond to the instruction available from that board.

We are not asking that learning-disabled children receive some unfair educational advantage, but rather that they be provided every available opportunity that

exists within this province for a basic education in this very competitive world, a world that is very hard for them to exist in. Could there not be provision for the transfer of funds to such independent schools, up to the same amount received by a board of education for such a hard-to-serve pupil?

Just prior to making this presentation, we had some discussion out in the hallway. We were discussing the difficulties that some individuals have with the concept of purchasing a service for a child from a private institution, and it occurred to me that the government of Ontario, although it maintains all the highways in this province, contracts out to private firms to build those highways, and those highways are for the benefit of the people of this province. Nobody ever dreams of saying to the government, "No, you should have your own people who build highways." You contract it out. We're asking for a basic service to children—education—and sometimes the government-funded boards of education are unable to do that. We recognize that and we don't hold that against them, because not all boards have the resources and expertise, but don't hold the children hostage to that.

We wish to thank the committee for allowing us this opportunity to speak to you regarding our concerns with respect to Bill 4. As you deliberate on what was said here today, Suzanne would ask each of you to think of your mothers. If you had been a child with severe learning disabilities such as her son, would your mothers have been here today fighting to save section 35 on your behalf? As a mother, Suzanne knows what that answer is. That answer would be yes.

We would like to thank you for hearing our requests and we would be pleased to address any questions the committee may have.

The Vice-Chair: Thank you. Mr Martin wishes to comment.

Mr Martin: I just wanted to say how much I appreciate the fact that you've taken the time to come down and share with us the story that you've just shared. It certainly will be helpful in the deliberations that we participate in here to come to a place where we can find some way of making sure that we are serving all the needs of the children in Ontario, which is what the ministry is about.

I have some information that I wanted to share with you. It sounds like this issue is going to return quite often during the hearings we have, and I think it's important that the folks around the table and those who are interested know what the process is now to deal with students who have special needs in school boards and what's available to them by way of appeal and that kind of thing. So I ask that the ministry prepare a couple of pages so that you might have that and be able to look at it.

The Vice-Chair: Thank you. That will be circulated. Any questions? One question each caucus, please.

1620

Mr Beer: I appreciate we're limited for time, but just a comment and a question. First of all, I want to thank you for coming. I recognize that this would certainly not have been an easy trip.

It seems to me there two things that you've raised. One is, as it happens, the committee is sitting and looking at a bill which is going to change the hard-to-serve process in the province, and at that precise moment in time, it has placed you, in terms of what would be in that legislation, in a situation which is impossible. I think everybody on the committee would say that we need to try to ensure, through the parliamentary assistant to the minister, that in fact your son is dealt with fairly and gets the kind of support that he needs. I think we'll want to follow up with that.

Secondly, in terms of the bill itself, if, as has happened in this case, you are going to experience particular difficulty were this change to be made, recognizing that there are other people out there who simply don't fit into the neat little blocks that we try to construct—I think that doesn't say that we have all failed, but legislation, almost by definition, cannot cover all situations. You need something that is going to allow you to do that. I think that both yesterday and indeed the witness before you, yourselves, and I suspect others are going to be underlining that. I think as legislators we've got to really probe in terms of: Why is this change being made? Is there something that can effectively replace it? If not, then shouldn't we keep it in place?

My question then is, when do you expect to know the results of the hearing that you were at this morning? Did they give—

Ms Gremm: In a week I would know.

Mr Beer: A week. Perhaps I could ask if you could let the committee know. I'm sure, probably through your own member, you'd be doing that, but that would be useful to us.

Mr MacDonald: The committee was being very helpful to us by saying that they would make a decision in a short time frame. That's one of the difficulties with some of the time frames that already appear in the Education Act and the time frames that appear in the response to Bill 4 put out by the Ministry of Education advisory council. They want to talk about, if they do retain the hard-to-serve provision, that they would have 60 days to make the decision. You can't ask parents to wait 60 days after it's taken years of fighting and years of heartache and years of going to psychiatrists and psychologists. We need to expedite decisions for children who are presenting with this.

Mrs Cunningham: I think that this family has given

us an example of what it's like out there and perhaps why there hasn't been a hard-to-serve provision for any child in the province since June 2, 1992. Perhaps that's why the date was picked. I have no idea why anyone would retroactively want to impose legislation of this type; I'll just make that statement.

I think that possibly boards are very nervous about this particular clause within the legislation, but I have to tell you that I was part of the committee that looked at Bill 82. I was on the London board at the time and I certainly know what the intent was. I thought that by this time we would have had an opportunity to take a look at the programs that have been made available in the last 15 years for young people who had been designated as hard to serve and maybe we would have gained from those programs and learned how early intervention would have helped families. That's what the education system's all about, and we're failing, not just in regard to this family but others as well.

I wanted to simply ask a question. Obviously you want the section to remain as is, but I wondered if you had any recommendations or if you would like to expand upon what you've already said, specifically with regard to why this section hasn't been implemented for young people across the province of Ontario. Is there a real reason, either in your own experience or the experience of others in your municipality, as to why the hard-to-serve students are not being dealt with, with regard to the special committee? Do you have any feeling for this?

Mr MacDonald: Yes, we do. When Suzanne became aware of the provision that was available to her in legislation, she had been going through the IPRC process, the identification and placement and review, which are all internal mechanisms. The difficulty with those mechanisms is that the board staff make the recommendations. If you do not agree with it, you can appeal it. Even when the appeal committee agrees with your appeal, which is what happened in Brian's case, it gets sent back to the same committee. So then they will come up with another placement option, but they seem committed to only provide placement options that they happen to have within their own board.

We have repeatedly asked the board of education that we're involved with, "Can you show us in writing where it says that the IPRC has to put down a placement?" Are they not able to say, "We don't have a placement"? They have never responded to that written request, and it's been asked repeatedly.

I think that systems take on a life of their own, as we all know about bureaucracies, and there's a momentum there. There just seems to be a reluctance to say: "This child is giving us real problems. We're not sure what to do."

I work in social services as a behaviour therapist. My definition of a professional is someone who knows

when to say: "I don't know the answer. I don't know what to do." I think boards of education need to be willing to step back and say: "I'm not sure we can help this child. Let's go out and find the help. Let's be willing to look at things. Let's be willing to bring in resources."

A lot of school boards too just don't have the resources. They do not have psychologists on staff. The teaching staff don't seem to access the resources that are there.

That brings up the issue of accountability. If there are going to be changes to hard-to-serve, number one, I hope it's not repealed and I hope it's not a retroactive thing. That would be akin to the government wanting to save some money so it suddenly decides, "Retroactive to two years ago, we're going to change the criteria for family benefits, and you have to pay it all back." It just doesn't make sense to do that to people.

I think there need to be additions in the act that force some accountability on educators. Maybe in addition to an independent review of a child to designate hard-to-serve, maybe in order to have some safeguards built in, there could be independent clinicians who review, on an annual basis, the child's progress, especially if there's a concern that this child is in a private school that is only recognized by the government but not funded. Have some mechanism to follow up, have some accountability, even for IPRC placements—a year later, did the child actually benefit?—and not just accept what the educators say.

We have documents regarding Brian that we did not want to give to the committee because they are personal documents. They are his report cards. Despite Brian being clinically assessed on four different occasions—three independently and one by the board, all at the request of Mom, none at the request of the board—they all demonstrate that he was at grade 2 and 3 reading levels, yet all the way to grade 7, his report cards all state that in reading and mathematics and all the areas he's deficient in, "satisfactory," "satisfactory," "satisfactory."

His assignment in grade 7 was to stand up in front of the class and give an exposé on an Edgar Allan Poe short story that he read, and this boy cannot follow the instructions of a food label package. He loves to cook but he cannot read the directions. If his mother verbally tells him what to do, no problem. He's of normal intelligence and he cannot read. And he got to grade 7. On his report cards it states that if he just tried harder, if he had a better attitude, he would succeed.

I look around at some of the handicapped members of the committee. I'm referring to those of you who are wearing corrective lenses. It's like me saying to you, "If I take your glasses off, if you just had a better attitude, you'd be able to read the sign." But even in this day and age, that is some of the stuff that is written on

report cards by teachers. Something has to happen.

Ms Jenny Carter (Peterborough): I'd like to welcome you here and say that we really do sympathize.

I'm a little puzzled about the numbers involved here, because we were told that very few pupils have come under the hard-to-serve regulations. I think the number given us was six overall. Yet I also understand that about one in 10 children has some form of learning disability. So there does seem to be some kind of gap here. Is it that most children who need some kind of special assistance are not diagnosed or that the authorities are unwilling to set up these special committees? Do you think there's a hidden need out there that's not being met? What are we looking at here?

1630

Mr MacDonald: I don't believe that the need is hidden; I think it's very obvious. The question is, why isn't it acted upon? In our case we were told outright, "We don't do that." We had to point out to them that it wasn't their choice, that the government of Ontario had legislated that the parent had the right to request this. To me, as someone with graduate-level in training in psychology, who works in social services and works with handicapped children and adults who have extreme behavioural problems, I don't understand why there is this reluctance of people to identify children. I think some of it is a lack of identification, but even when there is identification, you don't see a lot of progress in the child.

Let's face it, a lot of parents are not the type of people who sit there and thump tables and demand answers. They are intimidated by people. Suzanne is unable to say too much today because this is a very difficult situation for her to be in front of a group of people. We put faith in the professionals. I don't question my doctor, usually. We don't question teachers. We don't question superintendents. These are people who are paid, trained, and we feel, "Well, I guess my son has a problem and that's just the way it is."

In Suzanne's case it was only after seven years that she started to realize how much was ignored. When he was in grade 1 and 2 he always used to write his letters reversed and inverted. Nobody ever told her, "This is serious; we should look at this now." "Oh, it'll be okay."

She had to agree in writing to give up French instruction to Brian. Brian comes from a French background; that's his mother tongue. She had to—on two occasions—first give up French immersion and then give up French classes after he was transferred to the English system in order to get some resource assistance. You had to give up that in order to get a little extra assistance, and that little extra assistance proved to be very little and did not help him at all.

Ms Carter: I'm wondering whether, if we had better diagnosis and there was a larger group of children known to have this problem—as I say, I think there is quite a large number out there—maybe a given school board could provide special education for that group.

Mr MacDonald: I would think that if there was in legislation the requirement of some sort of screening process prior to grade 1 or grade 2, some sort of diagnostic screening set up in order to catch children—because we know what the clinical signs are. Even if it wasn't a learning disability, even if we found out this child has some emotional difficulties because of some family situation, it would still give time for the proper government agencies to respond to a child or a family's need.

The Chair: Thank you for your presentation and thank you for coming to see us today.

Mr MacDonald: Thank you very much.

LESLIE FLEMING

The Vice-Chair: The next presentation will be by Ms Leslie Fleming to the standing committee on social development on Bill 4, An Act to amend certain Acts relating to Education. Good afternoon. Welcome.

Mrs Leslie Fleming: Please excuse me; I'm a little nervous.

Members of the committee, I thank you for the privilege to address this important issue. School boards will be required to operate kindergartens and, after August 31, 1994, junior kindergartens. The Lieutenant Governor in Council will have the power to allow boards to phase in junior kindergarten requirements by September 1, 1997.

I live in York region and have two children, ages three and a half and 18 months. I brought a picture. I elected to speak mainly because they cannot speak. York region plans very strongly to fight this issue and apply for the phasing-in requirement by September 1, 1997, if this bill is passed.

There were 166 school boards in Ontario from September 1991 to June 1992. Eighteen of these boards and three isolate boards do not have junior kindergarten. Out of these 166 boards, 54 are Catholic boards. There is only one Catholic board in the whole of Ontario that does not offer junior kindergarten—in Wellington.

The public school system makes up 112 of these boards, with 20 that do not offer junior kindergarten. It seems to me a small number that do not offer junior kindergarten, which shows me the program must be beneficial. It seems that junior kindergarten is a program that even though not mandatory, has been running in several schools for years. If it were not beneficial, these schools would have dropped it years ago.

Beachburg Public School is a small school in Renfrew county which I attended a number of years ago. The village population is approximately 1,000 people.

They have had junior kindergarten there for the past 20 years. Art Jamieson is the principal at the school. He feels the program's main benefit, although there are many, is that if a child has a learning or speech problem, that can be detected early. Special training may be started and the problem may be eliminated before the child reaches grade 1 or 2. However, there are some problems which may never be fully resolved. The ones that are resolved tend to greatly decrease the amount of money later spent on special education.

The second reason for speaking here is the case of discrimination in the school system. The dictionary definition is "a difference, often unfair, in the treatment of a person or thing." It is very unfair that because my child is not Catholic, he is not allowed to attend junior kindergarten.

Canada is a place where you are not to be discriminated upon because of your colour, religion, race or sex. However, at a very early age our children are taught that discrimination is all right in certain areas. How do you explain to a four-year-old child that he is the right age and should be allowed to go to school like his friends, but he is the wrong religion or lives in the wrong region?

Recently, the Ministry of Education handed the Catholic board in York region a special \$12.5-million grant to help tackle a \$29.2-million debt. Why is my money being used to help eliminate a huge debt? The Catholic board is also only increasing its taxes by 6.6%, whereas the public board has a hike of 9.6%. The money used to pay this debt could have been used to help fund junior kindergarten in York region. It does not seem fair to the public school children who do not have junior kindergarten that the Catholic school board is so far in debt and has junior kindergarten. Where's the equal education for everyone?

My son will turn four in September of this year. He will not be able to attend junior kindergarten. If York region is allowed to phase in junior kindergarten by September 1, 1997, then my daughter, who is now 18 months, will also not be able to attend junior kindergarten either. She was born in December 1991 and by September 1997 will be almost six years old.

My children are both very bright and advanced for their ages. What a waste not to let them attend junior kindergarten. A mind is a terrible thing to waste, especially when it is young and wants to learn. We know that children learn enormous amounts before they are five years old.

I stayed home with my children to watch them grow, develop and learn. Now I must watch their hearts being broken when they have to wait to attend school. We do not have the money to send them to a private school for junior kindergarten.

Please think hard about this issue and those who are

applying for phasing in. York region should have junior kindergarten in September 1994. Help make it happen. Thank you very much for your time.

The Vice-Chair: Thank you very much for your presentation. Because we are behind, could I ask for one short question per caucus, please. Ms Cunningham, do you have—

Mrs Cunningham: Yes, I guess I do. Is the reason you're here today that other boards have junior kindergarten and you don't? Is that the real reason, the issue of discrimination?

Mrs Fleming: Yes.

Mrs Cunningham: My guess is that if in your community the neighbours were sending their children to child care programs within a school building or otherwise that were publicly paid for, you might choose them for your child too, the socialization programs that are offered with child care. Is that what you're talking about?

Mrs Fleming: I'm talking about that my son will be four years old. He is very advanced. I have been speaking to the senior kindergarten teacher in the area where he would go to school. He is already at grade 1 level in most things.

Mrs Cunningham: Okay.

Mrs Fleming: Because he is three and a half years old and will not be able to enter a school until he is five, I think it is very discriminatory, because the people down the road who are Catholic can go.

My issue is that you either make it available to everyone or you make it available to no one. There shouldn't be any special treatment. Either everyone goes or no one goes. It seems from the statistics I had, which I received from Keith Baird, that most of the schools have had it and have had it running for 20 years. Obviously, it's a very beneficial program. A lot has been done. Why only for certain people?

1640

Mr Randy R. Hope (Chatham-Kent): I was just reading over your comments. Both my children have attended junior kindergarten. I agree with you when you talk about the identification at an earlier stage because my son was one of those who was identified at an early age. Now we've corrected the problem of this disorder that he has.

I would agree that those school boards—and I guess there are school boards in my area, I guess one of the most financially accountable. But I do agree with you where some of the school boards, and with the time lines, I believe they ought to move quickly and implement junior kindergarten. I believe, while junior kindergarten is important, that child care reform is also another major issue that we must address.

Mrs Fleming: My issue also is that a small place, a population of 1,000 people, can offer junior kindergarten

and some place that is so close to Toronto, Richmond Hill, cannot offer it. Why? I even considered, when I came to Toronto, to live in the boonies, way out in no man's land because it is so far away from Toronto, but yet we have junior kindergarten and this advanced technology, near Toronto, doesn't have it. Why?

The Vice-Chair: Thank you for your presentation.

Mrs Cunningham: If I could just add, perhaps Mrs Fleming would look into this. It's my understanding that a particular school board would have to put a lot of capital in. You can check and see. It's my understanding that they're absolutely packed to capacity—

Mrs Fleming: Yes, they are.

Mrs Cunningham: —and the amount of money for them to physically expand—I think they tried to expand into church basements and whatnot as well, but I'm not sure. That's the reason I got when I asked a question.

Interjection

Mrs Cunningham: No, the idea of one the boards within the city limits with no space at all, that capital dollars were very expensive for them as well.

Mrs Fleming: In the last five years, any school that has been built in that region has been built with facilities for junior kindergarten.

Mrs Cunningham: I have the wrong region then. I'm thinking of—

Mrs Fleming: They are packed to capacity. There are a lot of new people moving up there, but all of the schools that were built in the last five years have been built with facilities for junior kindergarten. They're just using it for other options at the moment.

Mrs Cunningham: Mr Beer's just agreed with me. We both looked into this and it was a matter of the capital facilities, of not having the space, although there was an effort at one time. I think three years ago they looked seriously into it, but anyway, I still understand what you're saying. I'm not arguing with you at all. We very clearly understand your question.

Mrs Fleming: Why should we let a child suffer because they don't have the capital?

Mrs Cunningham: I very clearly understand.

Mr Hope: I would like clarification because I disagree with both of you. I would ask legislative research if it could find out what some of the reasoning was behind the delay in JK. That's where we get credible information from and I'd ask that it come from there.

Mrs Fleming: I have a thing right here. At the back of—

Mrs Cunningham: I've attended a board meeting. I don't want to argue with you. Mr Beer has too.

The Vice-Chair: Please, may we have one speaker at a time.

Mrs Cunningham: I don't think the Premier has, and I think it's his riding.

The Vice-Chair: Sorry. Did you wish to respond?

Mrs Fleming: Yes. "Province May Face Fight Over JK." This was in the Liberal, which is a small newspaper and comes out in Richmond Hill. It states, "Predicting the NDP will lose the next provincial election, Cressman suggested the new government may not force school boards to implement the expensive program." So they're hoping they can delay it as long as they possibly can and by 1997 try the phasing-in program if they're made to do it. If they don't, then another government might be in and they can slash the whole program completely.

The Vice-Chair: Thank you for your presentation and thank you for appearing before us today.

Mr Hope, did you want your question answered at this time? Do you want it for York region only or across Ontario?

Mr Hope: Let's look at all those school boards that haven't implemented and let's ask legislative research to compile some information, whether it be newspaper articles, some of the reasoning for why some of these school boards have put the arguments up against JK.

The Vice-Chair: Okay, that clarifies the item.

SUE MOGFORD

The Vice-Chair: The next presenter is Ms Mogford. Would you come forward please and introduce yourselves. Approximately a 15-minute presentation; hopefully, some of that can be used for questions. Welcome.

Mrs Sue Mogford: My name is Mrs Mogford.

Mrs Kathleen Haswell: My name's Kathy Haswell.

Mrs Mogford: I am a mother of a severely learning-disabled child, and Mrs Haswell has two children with learning disabilities.

I am here today to beg you not to repeal the hard-to-serve clause. This decision will have disastrous effects on our son's education and his future.

I understand that the Minister of Education feels that appropriate special ed programs and services are available to meet the needs of all the children in this province through either the school boards or residential placements and demonstration schools. Well, I am here to tell you, the committee members, that he is wrong. Although the needs of the majority of learning-disabled children can be met, not all can.

My son Terry is nine and a half years old. His needs were not met in the public system. He is a child with a multiplicity of problems that include an attention deficit disorder, global fine and gross motor dysfluency, perceptual, spatial, auditory processing, short-term memory and language handicaps, yet he looks just like any other normal child.

I would like to give you a brief synopsis of his first

four years of schooling, which eventually led him to be designated hard to serve.

He began JK in the fall of 1987. We were called into the school after about a month. He was acting differently than the other children. He was more distractful, would lash out when teased by children, would not cooperate, could not pay attention. We explained his problems to his teacher, who in turn approached the school base support team, but she was told that at four he was too young to label as a child with problems. But even at this age, at four years old, my son knew he was different. He would ask: "Mommy, why can't I do things like the others? They can cut, colour, throw balls. Why don't they like me?"

In the fall of 1988, he entered senior kindergarten. After a month, the same thing happened. We had the same problems. He seemed angry and frustrated. He was developing behaviour problems, they told me, but again he was too young to label as a child with problems.

In the fall of 1989, Terry entered grade 1. After a month, they approached us again. "Terry has behaviour problems," we were told. "He's aggressive. He won't sit in his seat. He won't pay attention. He keeps interrupting. He has behaviour problems because he's adopted."

Now, the social worker scoffed at this idea, because Terry has always been very comfortable with the idea that he was adopted. Nevertheless, the school asked us to place him on a list for adoption therapy. Reluctantly we did this, on the condition that help would be given. This was never done. They still maintained that the problems were behaviour, nothing else.

Instead of giving him help, they put him on a modified program. What this means is that they reduced his workload as well as their expectations of him. His anger and frustration increased. By March 1990, he displayed suicidal tendencies. He was six and a half years old. You have no idea how parents feel when their six-and-a-half-year-old child will say things to them such as: "I don't care if I live or die. I'm stupid. I don't belong in this world."

1650

We informed the school and were told that he had to be tested before remedial help could be given, there was a long waiting list and we'd have to be patient. Upon the advice of his doctor, we had him tested privately by a registered psychologist. The school was surprised by his results but we were not. In addition to the above handicaps, the psychologist also stated in his report that Terry did not have a behaviour disorder. He was a child with at least a normal IQ. In some areas he tested above average, in spite of all his disabilities. He was fully aware of his lack of academic performance and this caused his frustration and anger.

In May 1990, at his IPRC he was declared exceptional. At this time we were also told not to expect too

much from Terry because he was multihandicapped. In the fall of 1990, he entered a specific learning disability class at a modified grade 2 level. Math and language art were given in the SLD class; for the other subjects he was integrated into a class of over 20 children. There was also a teacher's assistant there to help him.

Things seemed fine the first couple of months, then the problems started again. He became more and more frustrated. The complaints started coming in regarding his behaviour. In March 1991, he had his second IPRC. The school elected at this time to increase his integration. He was progressing well they told us. They didn't want him to be too dependent on a teacher's assistant and a small classroom. He had to learn to cope with a larger class and less individual attention.

Upon the advice of the doctor, we appealed this decision. The school assured us that his needs would and could be met. They would get back to us. Terry became more and more frustrated. His behaviour deteriorated. He developed an "I don't care" attitude.

The beginning of June 1991, we refused a second placement for Terry because, although it was in a different school, it was exactly the same type of setting he was in before. The board said it would look into matters. On June 7, we placed a formal request for hard-to-serve. Terry had fallen apart, he was depressed, he was uncontrollable. The doctor refused to adjust his medication until the problems with his educational setting were resolved.

All this time the school kept insisting that he was making social gains, and yet the complaints that were coming to me were that he was jumping on top of the desk, shouting at the other children, he slapped the teacher's hand, he was taken out of an assembly because he yanked another child's hair, and all this time they kept insisting that he was still making the gains.

When we did not hear from the board by mid-August, we decided it was time to look elsewhere. In September 1991, he was enrolled at an independent school at our expense. He was put into a grade 2, grade 3 program. At this time, he was at a kindergarten level in reading; math he was at grade 1. He should have been in grade 3.

In October 1991, the neuropsychologist for the board assessed him. The findings were that Terry had not progressed. If anything, he had regressed. No academic or social gains had been made, although he had been in an SLD class and was assisted by a teacher's aide.

Another notation that came out was that his best work was done blindfolded and in a darkened room. Terry has severe attention deficit disorder. One of the recommendations was that he be placed in a cubicle so that he would be in a distraction-free area. Now I ask you, how do you explain to an eight-year-old boy that he has to sit in a cubicle to learn? How do you explain it to his

peers? How would you like your children put in a cubicle to learn?

Once we placed him in the independent school, in less than one academic year his reading progressed to grade 2, his math progressed to an early grade 3. In April, he wrote a speech on space travel. Not only was he chosen as a class finalist, he went on to place third in the primary division in his school. In May he wrote a letter recommending his teacher for an exceptional teacher's award. Instead of being told that he is distractful, aggressive and has a behaviour problem, the feedback that I get now is that he is kind, gentle, a loving child, eager to please, but still a very difficult child to deal with.

He is now in his second year at the school. He has done well, although this year he has had a lot of difficulties coping with his disabilities. He has passed and he will be going on now to a grade 4 class.

I do not fault the school board for what Terry experienced in their school. After all, Terry has what's known as the invisible disabilities. I do not believe that they fully understood his medical problems or that they in fact had the time to address his problems. His multitude of handicaps make him a complicated little boy to deal with. They really did try their best.

His present school not only works with him academically but also has helped him with his social skills. He receives therapy every three to four weeks to help him deal with life as well as to improve his social skills. In addition to this, there is a school counsellor who works with him. The school principal has also taken an active role in dealing with him. She has helped him many times with his reasoning skills as well as his problems with peer interactions.

The Minister of Education states that if a child's needs cannot be met by the school boards, residential demonstration schools are available. On May 16, 1991, the Honourable Marion Boyd, then Minister of Education, directed a review team to examine policies, practices and conditions related to the care of students at the provincial schools for the deaf and blind and demonstration schools.

The following findings were reported:

(1) Psychological and social work support for assessments, ongoing consultations and ongoing direct services are not adequate for students in demonstration schools.

(2) Although the admission criteria require that the child be experiencing no serious mental health disorder, the distinction between serious learning disabilities and emotional problems is not always clear and there is generally an interaction between the two.

(3) The demonstration schools serve students with serious learning disabilities. These children also typically have mental health needs for which the schools are

not well resourced.

(4) The average stay for each child is one to two years. The children must have no need for treatment of an emotional or behaviour disorder. They must benefit socially and emotionally from a residential program.

(5) The general government direction towards de-institutionalization in the human services field has been seen in closures and downsizing of facilities serving the developmentally handicapped and in program changes for the children and the elderly. The demonstration schools run against this policy.

The following recommendation was made:

"A process be established by the Ministry of Education requiring that every alternative to residential schools be explored prior to consideration for placement in a residential school."

As you can see by the findings and recommendations of this report, a demonstration school would not be a viable alternative to his present placement.

In addition to the various handicaps, our son also has a severe problem with his drug therapy. Because he is a fast metabolizer, he has to take massive doses of medication daily just to function. This medication has to be constantly monitored. This is done by monitoring both his behaviour and his academic performance. His teachers are fully aware of this and at the onset of any changes, they are in telephone contact with us or his doctor so that adjustments can be made accordingly.

Medication is administered a minimum of 11 times a day. Monitoring his medication has always been a difficult task and it always will be, but the prognosis for our son is positive as long as he receives the proper medical attention and his academic needs are met. This won't be done if section 35 is repealed.

1700

My son was designated "hard to serve" on June 18, 1992, a little more than two weeks after the retroactive June 2, 1992, deadline. Our initial request to have him designated was made in June 1991. He should not be penalized because of the school board's delays and bureaucratic problems. We followed all the proper procedures.

It was a long and stressful ordeal, and now the government is telling us that this was all in vain: There's no such thing as "hard to serve" and he is not entitled to funding and never was. This is unjust. How can the government take away a remedial benefit from a handicapped child? How can they say that the past two years never happened? I also have a letter from the government stating that, pending changes in the legislation, the government may ask us to refund them the cost of his education. Again, I say this is unfair.

Please do not cast my son aside. He has his problems, yes, but he is a bright child who has a right to an education just as well as any other child. He has finally

found some happiness, understanding and a sense of belonging. Don't take this away from him. His needs cannot be met by the school boards. They have already admitted to this fact. Because of his numerous medical problems, he would not benefit from a residential setting.

I would like to read you a letter that he wrote this past October:

"I have ADD. I have a problem concentrating and when I do my work I'm stressed out.

"The kids won't play ball with me. The girls kick me sometimes.

"The first couple of weeks I thought I had friends, but the way it turns out, I have a couple of friends.

"This past couple of weeks I have not finished my work. This makes me feel left out. I feel that there is nothing to do when I'm outside.

"When I can't concentrate, everything is racing in my head. I'm not doing well in my reading. This makes me feel sad. It's stupid and I don't understand."

What will happen to our son? Where does he fit in? The ministry has an obligation to ensure that he has an equal opportunity to an education. If section 15 of Bill 4 is passed, our son's right to an education will also have been repealed. Our son has been saddled with many problems, but he is learning to cope with them. Please don't force him to cope with life without an education.

The Vice-Chair: Thank you for your presentation and coming forward today and sharing this important information and problems.

PARENTS OF HARD TO SERVE CHILDREN

The Vice-Chair: The next presenter is the Parents of Hard to Serve Children.

You're going to remain at the desk, are you, Ms Haswell?

Mrs Haswell: Yes.

The Vice-Chair: Good afternoon. Please introduce yourselves and proceed with your presentation, if you would.

Mr Fred Thompson: My name is Fred Thompson. I'm accompanied by Mrs Kathleen Haswell and Mr Tom Levery.

We are members of a group of parents with mentally handicapped children. Some of our children are severely learning disabled. Some have Tourette's syndrome. Some have foetal alcohol syndrome. They may be dyslexic, aphasic or autistic or have attention deficit disorder. It has been proven time and time again that our children are intelligent and that they have potential, but they've not been well served in the school system. Some have been very badly served. Some have been out of school for months at a time because their school systems refuse to serve them, and they have not been

served at all. Our children are hard to serve.

Mr Levery's child has been denied access to a hard-to-serve hearing by lack of response by his board. Mrs Haswell's child has had a hearing but she lost, even though the board does not provide any special education classes or services at the high school level at her board. You've heard Mrs Mogford, and others of our group have similar problems.

In our province, each child is guaranteed an education that will meet that child's needs. There is a piece of legislation that exists to provide appropriate educational services for hard-to-serve pupils, but section 15 of Bill 4 will repeal that legislation, which is section 35 of the Education Act, as I'm sure you're aware.

The Education Act places the responsibility of providing educational services and special education services squarely on the shoulders of the minister and his ministry. The Education Act, subsection 8(3), states, "The minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this act and the regulations, appropriate special education programs and special education services," and subsection 2(3) states, "The minister is responsible for the administration of this act."

The Minister of Education's Bill 4 will deny the remedial benefit of the Education Act to disabled children. We believe that the minister is an honourable man and that he would not purposely take a benefit away from a disabled child. We believe that the minister has been duped by his ministry into thinking that section 35 has no purpose. We believe the ministry has purposely misinterpreted section 35 and has given the minister wrong information. We believe that this misinterpretation has been systematic and has had the effect of denying services to many hard-to-serve disabled children.

In a current human rights case concerning the ministry's refusal to comply with section 35, which was section 34 when the case was launched, the systemic investigations unit of the Human Rights Commission reports the ministry's response. That response clearly shows the ministry's position. We will read that response and we will give you nine reasons why that response is perversely wrong and is a misinterpretation. We will show you how the ministry's position goes against the wishes of the Legislature that enacted section 35. I will read the ministry's response:

"Prior to the disposition of the complainant's court action, ministry counsel spoke with the original investigating officer. The ministry's position at the time was that the complainant did not qualify under section 34 of the Education Act as a hard-to-serve pupil.

"Before Bill 82, which amended the special education sections of the Education Act, section 34 of the act allowed school boards to have, with respect to children

deemed to be trainable retarded, (1) an admissions committee and (2) an exclusion clause, which could be invoked by a board that believed that the trainable mentally retarded child could not benefit from instruction. Bill 82 took away admissions committees; boards were required to provide service to trainable mentally retarded children. Sections 72-78 of the amended act required that boards provide special schools and/or classes for students identified as trainable mentally retarded. The amended section 34, which dealt with the inability of a pupil to benefit from instruction, was a safety net for section 72. The ministry maintained that section 34 was meant to apply to trainable mentally retarded pupils and was not intended to deal with learning disabilities. Because the complainant had a learning disability, it was felt that he did not qualify under section 34.

"Ministry counsel, by way of denying the allegations of discrimination, pointed out that the complainant had not been assessed as having a mental handicap as per the special education provisions of the Education Act, and specifically section 34 of the act."

1710

We believe that the ministry has no grounds on which to base their opinion and more than adequate grounds to reverse their opinion. The ministry must have been aware of at least nine relevant points which they had to ignore in order to hold their opinion. We will spell out those nine points.

First: When any act is amended, those sections which are changed or deleted no longer apply in their previous form. Bill 82 amended the Education Act with the statement in section 7: "Section 34 of the said act is repealed and the following substituted." In other words, the previous section 34 no longer applied. The ministry had no reason to assume that the new section 34 had any reference to the previous section 34.

Second: The type of pupil the new section 34 was intended to serve was one with "a mental handicap or a mental handicap and one or more additional handicaps."

The new section 34 made no exclusive reference to the trainable retarded, either singularly or as a group. The ministry had no reason to think that the legislation was meant only for that group.

Third: The ministry claimed that section 34 was a safety valve for section 72, or sections 72 to 78 of the amended act.

Sections 72 to 78 make no reference to section 34 and vice versa. There is no cross-reference of any kind. The ministry had no reason to assume there was a unique connection between the two sections.

Fourth: The difficulty with section 34, now section 35, revolves around the definition and interpretation of the term "mental handicap," and therefore what type of child may be considered mentally handicapped in order

to be eligible under section 35 to be declared "hard to serve."

The ministry has maintained that section 35 was only meant for the trainable retarded pupil. The Education Act in section 1 contains a definition:

"'Trainable retarded child' or 'trainable retarded pupil' means an exceptional pupil whose intellectual functioning is below the level at which he or she could profit from a special education program for educable retarded pupils."

According to the Education Act, the trainable retarded are not educable.

On November 18, 1980, the Honourable Bette Stephenson, Education minister, made the following statements in the Legislature:

"I believe it was approximately seven years ago that work was begun on the drafting of what might be considered legislation in order to ensure that all exceptional children in this province would receive the benefit of an education program designed to help them meet their full potential.

"I believe the bill we introduced, the amendments which we have accepted and those amendments which we are proposing today will allow us to move in that direction responsibly in order to ensure that our children are well served."

Mr John Sweeney, Liberal Education critic, responded in the Legislature November 25, 1980, when he spoke about amendments he had proposed which had been accepted and which defined the type of child who would be considered hard to serve. I quote Mr Sweeney:

"When this bill was first introduced, I had made it very clear that there were two aspects of the current section 7 of the bill that troubled me greatly and that would have to be changed before it could get my support.

"I made it clear that...the school board had a responsibility to every single child admitted to its jurisdiction, either to meet the child's needs itself or to find an alternative program somewhere else. Quite frankly, it does not matter where else it is as long as it meets that child's needs.

"The other part of section 7 I insisted had to be changed in some way was to provide an appeal mechanism for parents, because we spoke at that time of the number of parents in this province with children, particularly with severe learning disabilities, and the experience they had with their particular school boards.

"Last week, I introduced four amendments dealing with the broader interpretation of the hard-to-serve pupil in this legislation. Instead of limiting the hard-to-serve pupil to 'one who is unable to profit by instruction,' I added the words to make it read 'unable to profit by instruction offered by the board.' That was done with care and consideration. The point I want to make here

now is that we have, under the jurisdiction of the boards of this province, children who, for whatever reason, simply are not getting an adequate education as offered by their boards.

"Those children are going to be defined as hard-to-serve children. Section 7 speaks to them. By adding the words 'offered by the board' after 'instruction,' what I am clearly referring to is any child for whom the board has done the best it can, but for whatever reason is simply not able to meet that child's needs, whatever those needs might be, whether they may be needs of care or educational needs. Therefore, that is the specific purpose of adding those words. I would suggest it is a significant addition. It is not just put there for fluff.

"I can say that the amendments I made available to the minister, which were intended to broaden the definition of what a hard-to-serve pupil is, have all been brought forward."

Mr Sweeney's amendments broadened the interpretation of a hard-to-serve pupil from "one who is unable to profit by instruction," who could conceivably be uneducable and trainable retarded, to "one who is unable to profit by instruction offered by the board." He then went on to clarify who those children were. Those amendments were accepted and became a part of section 34, now section 35.

When one is concerned about the meaning of legislation, one can look to the debate of the legislation. The ministry must have been aware of the debate, yet the ministry has not been concerned about the meaning of Mr Sweeney's amendments and has ignored the debate in the Legislature.

Fifth: Dr Bette Stephenson, on January 27, 1987, wrote a letter to clarify the meaning of "hard to serve." I'll quote a part of that letter:

"As the minister responsible for the introduction, promulgation and implementation of Bill 82, the amendment to the Education Act which mandated special education and services for exceptional children, I am pleased to respond to your request for the definition of the phrase 'hard to serve.'

"Although many of the examples cited by members in the lengthy discussion within the social development committee of the Legislature were those of children with significant mental retardation, the phrase 'hard to serve' was never intended to apply to any single group of exceptional children. 'Hard to serve' applies to children whose combination of exceptionalities is so unique or so complex that it would be virtually impossible for any one board of education or, in certain cases, even a consortium of boards pooling their resources, to meet the needs of that child under the act.

"I hope this information will be of assistance to you."

Dr Stephenson was the Minister of Education who authored Bill 82 and section 35. She was certainly the

best interpreter of the bill. The ministry was given a copy of the letter. The ministry chose to disregard Dr Stephenson's letter.

Sixth: Two of our members, in 1986, visited the offices of Dr Bernard Shapiro, Deputy Minister of Education, to ask that a hard-to-serve placement be facilitated. They were accompanied by Richard Allen, who was then the NDP Education critic.

A senior staff member of the ministry also attended and made a statement to the effect that because of the term "mental handicap," section 34 was only meant for the severely retarded or trainable retarded, and that was in accordance with the Interpretation Act. Dr Shapiro did not disagree. The ministry still holds that opinion.

We have since examined the Interpretation Act. It does not support that view. It contains definitions of various developmental retardations, but no definition contains the term "mental handicap."

On the contrary, the Interpretation Act states in section 10:

"Every act shall be deemed to be remedial...and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the act according to its true intent, meaning and spirit."

1720

The interpretation that the ministry put on the term "mental handicap" had, and has, the exact opposite effect to the true intent, meaning and spirit of section 34 and the Education Act as debated. It was and is a mean-spirited, restrictive interpretation which could only have been meant to deny access to services.

Seventh: If the legislators had meant section 34 only for the trainable retarded, they could have written it so. They did not. The ministry seems to think that "mental handicap" means "developmental handicap," but the legislators did not restrict the section that way either. The ministry has misinterpreted "mental" to mean "developmental" and has ignored the wishes of the Legislature and the demand of the Interpretation Act to use a broad definition.

Eighth: If the ministry were concerned about the definition of "mental handicap," it had to look no further than the Canadian Charter of Rights and Freedoms. In section 15, equality rights are asserted for every individual, including those who are mentally disabled or handicapped. Charter definitions of "mentally disabled" include the learning-disabled.

The charter is paramount over all legislation in Canada and the provinces. The ministry has a duty to be aware of charter provisions and to act accordingly. The ministry chose to ignore the charter.

Ninth: The first time that section 35 was used successfully, the ministry refused to comply with the provisions of the act. The case was taken to the weekly

court of the Supreme Court of Ontario. The ministry lost and was ordered to comply. The ministry appealed to the Court of Appeal, where it lost again.

In the one case, the ministry was ordered to comply by the Supreme Court. In other cases, the ministry has chosen not to accept its responsibilities and has ignored the significance of the Court of Appeal decision.

The ministry has disregarded nine profound reasons to find that a learning-disabled student is mentally handicapped and is eligible under section 35 of the Education Act. It is clear that section 35 has been wrongly misinterpreted. What has been the result?

Many parents trying to obtain help for their disabled children have inquired at the ministry and at their local boards about section 35. They have been denied hearings based on this misinterpretation, yet section 35 itself states in subsection 2 that if a parent believes their child is unable to profit by instruction offered by the board, the board "shall" appoint a committee. As you know, the word "shall" is imperative. A hearing must be held. Yet many boards refuse to appoint committees, and the ministry fails to enforce its own legislation.

Why has the ministry taken the position of denying disabled children what is rightfully theirs; at the very least, to be heard? Why has the ministry misinterpreted section 35? Perhaps you should ask the ministry. Our own belief is that the ministry wants nothing to do with independent schools, because that's the option made possible by the Legislature through section 35. When a public school cannot provide an appropriate placement for a disabled child and an independent school can, often at less cost, then shouldn't the disabled child have that opportunity?

For example, the ministry's demonstration schools—Trillium, Sagonoska, Jules Léger and Roberts—cost the province \$52,000 per student per year. These are residential schools for the severely learning-disabled. They have absolutely no record of success. One of the best residential independent schools for the severely learning-disabled children in North America, the Gow School, costs about half as much. It is also very successful, with virtually all of the graduates going on to university, often in Canada. I can state personally that the children who attend the Gow School are all severely learning-disabled.

One of our members has a child who, after experiencing terrible failure and trauma in his local school, has entered an independent school where an appropriate program is being provided, at a cost of \$5,400 per year, about the cost of an ordinary student in an ordinary class. That child was not an ordinary student, and his class in the local school was a special class with a cost of approximately \$18,000 per year. If he should be forced to go back to that special class, where he was not being served well, the cost will once again climb to around \$18,000.

Ontario could spend less money, while achieving excellent results, if section 35 were allowed to be used. But section 35 has not been properly used. The first time that section 35 was used successfully, the minister refused to comply with the provisions of the act until ordered by the Court of Appeal. Since then, a few of our members have used section 35 successfully. The ministry, instead of accepting the direction of its previous court loss, has threatened court action again with some of those parents.

That is very vindictive, because the legislation gives the ministry no option in the matter once a board has declared a pupil hard to serve. But the vindictiveness does not end there. Bill 4 states, in clause 15(2)(a), that the ministry will pay the cost of placement before June 2, 1992. There are only a few such instances. Most cases of hard-to-serve pupils are after June 2, 1992. Clause 15(2)(b) states that Ontario is not liable to pay the cost of placement after June 2, 1992. As indeed the previous witness has testified, the ministry has gone so far as to inform parents of this group that the ministry is going to want its money back. That is terribly threatening, particularly when a disabled child has legally and properly received a benefit under Ontario law.

Clause 14(1)(c) of the Interpretation Act states, "Where an act is repealed...the repeal...does not affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the act..." Bill 4, clause 15(2)(b), goes against this.

The Interpretation Act states, in subsection 1(1), "The provisions of this act apply to every act of the Legislature..." I would like to remind you that section 10 of the same Interpretation Act states, "Every act shall be deemed to be remedial..."

There's nothing remedial about the repealing of section 35. There's nothing remedial about the retroactive grab to get money back. Even though the Ministry of Education lost over the use of section 35 at the Court of Appeal, and even though it is before the Human Rights Commission, the ministry is attempting to prevent further use of this legislation by repealing it. This exhibits a callous disregard for making help available to disabled children.

We believe that the minister wants to ensure that services and programs are available to all exceptional children, notwithstanding their handicap or disability, and will not revoke this benefit allowed to exceptional pupils who cannot be served through a local school board. We feel confident that the minister will not discriminate against pupils with neurological mental handicaps, such as dyslexia, minimal brain dysfunction, foetal alcohol syndrome, developmental handicaps and attention deficit disorders, when the minister, in the same Bill 4, responds to the unique needs of children with medical disabilities who require services under the Mental Health Act and the minister is allowing payment

for the cost of the medical services not paid for by the Health Insurance Act and the cost of education outside Ontario. It's on page 3, section 35 of Bill 4, "Education costs outside Ontario."

Furthermore, the minister provides preschool language stimulation programs for exceptional children with hearing impairments and special education programs for developmentally handicapped adults, thereby responding to the exceptional needs of pupils with other disabilities.

When you consider section 15 of Bill 4, we ask you to consider the true meaning and intent of section 35 and how it has been misused. We ask you to consider the Interpretation Act. We ask you to consider the economics of obtaining successful results for less money. We ask you to consider the mentally handicapped children of this province.

We ask you to hold section 35 in place and to tell the ministry to allow its proper use, or at the very least to hold section 35 in place until an appropriate alternative is made available. Otherwise you will also be responsible for taking a benefit away from disabled children, and they are the most vulnerable members of our society.

That is our presentation. We have provided an addendum that specifies school costs and includes Dr Stephenson's letter.

On a personal note, I would like to mention that the Court of Appeal case concerned my son. Because he was able to access an appropriate program, he was able to use his potential and is now in his final semester at university, with two open job offers on graduation.

We would like to thank the committee for hearing us. Thank you.

1730

The Vice-Chair: And the committee thanks you for your presentation and presenting this very important information. We regret that there is not time for questions at this time, but thank you.

Mr Thompson: I understand.

The Vice-Chair: Mr Bisson, did you—

Mr Bisson: The point I want to make, Mr Chair, is that we have about a half-hour and two presentations and a vote coming up in the House, so we're very tight for time.

The Vice-Chair: Yes, we're very restricted for time.

The next presenters are Metro Toronto Networking Committee for SEACs. Would the deputation come forward. In the meantime, Mr Gardner has asked for a clarification while all of the members are here. Would you like to go ahead?

Mr Bob Gardner: Very briefly, if I could just clarify the research that the members want on why the boards identified by the ministry will not be able to

implement junior kindergarten by September 1994, probably the most reliable way for me to get that information is to fax a quick letter to those boards asking them. So if members smile on that, I'll be able to take care of that.

What I want to get permission from you for is what to say in that letter. I've drafted a little something on my screen here with some preambles about what the committee is doing, its hearings on Bill 4 and what not. I would say that:

"In briefings to the committee, the ministry has identified a number of boards that will probably not be fully implementing junior kindergarten by September 1994 and will require an exemption to phase in. Your board was one of the boards identified. I've been asked by the committee to provide information on why boards will not implement JK by September 1994. Could you please briefly indicate the main reasons your board feels it would not be implementing JK?"

Is that kind of thing satisfactory to members, or do you want to be more specific in the kinds of issues you want them to address?

Mr Hope: I think in general they will respond, but I would like for legislative research to check newspapers as to the effect which—

Mr Gardner: Of course.

Mr Hope: They have a tendency to talk a little bit more openly to the press about what the real issue was behind a thing than in an answer that comes from the school board on direction. I would like to know what was said at the time the decisions were made to either withhold or—I'm sure there was always public debate about this.

Mr Gardner: Mr Hope, the other option then is—this is very short notice to boards. They may not feel too comfortable in responding. We can not do this, and we can search newspapers both provincially and locally. If the newspaper search is sufficient, we can certainly do that and not contact the boards directly. Is that okay?

Mr Hope: That would be sufficient for me, yes.

The Vice-Chair: Agreed?

Mr Beer: And to note that most of the boards will be coming in to present before the committee. We can ask a bunch of questions.

Mr Gardner: Okay, so we'll simply do the newspaper search and whatever other material we can get together. Thank you.

SPECIAL EDUCATION ADVISORY COMMITTEE,
CITY OF TORONTO BOARD OF EDUCATION

The Vice-Chair: Would members of the deputation introduce themselves, please.

Mrs Georgina Rayner: We are two of the representatives on the special education advisory committee

from the Toronto board. I'm Georgina Rayner, and I represent the Ontario Association for Bright Children, and next to me I have Carol Jones, who represents the learning disabilities association. I also sit as a member of the Metro Networking Committee on SEACs. Thank you to the members of the committee for allowing us to present some of our concerns dealing with Bill 4.

We would like to point out that we are in favour of most of the items included in this housekeeping bill, but we have concerns about one item. We are gravely concerned with the removal of the "hard to serve" label from the Education Act. It has been the understanding of the associations that this label was the last safety net to protect the vulnerable child whose needs could not be met by any of the existing educational forums.

Bill 82 guaranteed universal access to special education for every child in the province. By repealing section 35, you are denying there are any hard-to-serve pupils out there. We all know there are many children, even if only 12 cases have come forward and only a few have been heard.

One thing we must remember is that the education system cannot be all things to all people. All children cannot be made to fit the mould. Ontario has prided itself in education and its ability to provide program needs for children, not children to fit programs. Smaller boards in Ontario could not possibly pay the costs of educating some of the special needs children who fall into the hard-to-serve category.

I come originally from Kenora and if there was money available, the services for treating children with psychiatric problems were not available. The services just don't exist. We have been told that these children could be serviced in section 27 programs. This is not a realistic explanation.

I'm going to point this out by a sample. At the present time, the Toronto board runs the McCaul Street school in conjunction with the Ministry of Education. The school is associated with the Clarke Institute of Psychiatry. This collaboration between health and education has proved successful. There are approximately 250 elementary and 20 secondary students who go to this school and receive active treatment from the Clarke.

The Clarke has informed parents and the school that the transition program and the day treatment program for children will be phased out next year. What will happen to these children? They are at this setting because of their severe psychological and social needs, complicated by disorders such as attention deficit disorder. They have already experienced failure in the school system. All interventions have been tried. This is their last hope. Where will they go? Someone suggested the Hincks Treatment Centre. There's a long waiting list.

Will these children become hard to serve? How will

you guarantee their rights to an active education? Parents of these vulnerable children already have enough emotional baggage without following legislative changes which may eventually take their child's rights away. Will boards like the ones in Metro be expected to provide psychiatric treatment as part of their special education plans? One part of this bill actually insinuates that parents must repay the ministry the funds received for children designated hard to serve after June 2, 1992. Is this not blaming the victim? Imagine the audacity of these parents to have a child with special needs who could not be serviced in our educational system.

Removal of the hard-to-serve label is not bad as long as there is a new support network in place. We do not know what the future will hold for our Education, Health and Community and Social Services ministries. Hard-to-serve pupils may yet be unborn. They may come from premature babies rescued with new medical technology. Drug addicts, crack babies, foetal alcohol syndrome, health issues like AIDS and environmental pollution: There must be protection for the future as well as the special children we already have. With the move towards integration and inclusion, without adequate supports and finances in place, there is concern that there may be underservicing.

There are many social changes occurring now and in the future. There will be ongoing changes to our education and how we deliver it. Special education will also be impacted by other legislation, like consent to treatment, when it is proclaimed. In all our work with parents and accessing a system there's no clear-cut way of servicing the whole child. By having different ministries responsible for different aspects of the child's life, we end up losing very important rights and privileges that every citizen of this country should have.

Please remember to look at the whole child and make sure that the safety nets are in place. The children are our future. In order to be fair and equitable, you have to treat them differently to meet their needs.

The Vice-Chair: Thank you for your presentation. I regret there is not time for questions. We have other presenters, so thank you.

The next presenters are the Down Syndrome Association of Ontario and the Ontario Association for Community Living. Would you please come forward.

Mrs Cunningham: Just while the next group is coming forward I have a couple of questions for the researcher. There have been a couple of statements today, and I'm not sure whether they are correct or incorrect, but I certainly don't think we need to worry our community of parents any more than they already are concerned.

The statement that people would be asked to pay back the government of Ontario, given that this legislation is passed: I think we need some clarification with

regard to that. At first glance, that would be my understanding. It isn't anything that I'm passing on. It was a concern I raised today in the House actually. We need a clarification very quickly because if people are taking that thought home and that isn't the intent, we need that to be clarified and I'd like to know that as soon as possible.

The last two presenters mentioned it, and if that's not the intent, if that's not what's going to happen, I think they should be called immediately.

Mr Beer: If I could strongly support what Mrs Cunningham has just requested, I think that clarification is needed, and I would think everyone would want it. I think there is some importance because we've heard that from a number of witnesses today.

The Vice-Chair: Does anyone wish to respond to those comments at this time, or will that come later?

Interjection: Later.

The Vice-Chair: Later? At the next meeting.

1740

DOWN SYNDROME ASSOCIATION OF ONTARIO
ONTARIO ASSOCIATION FOR COMMUNITY LIVING

The Vice-Chair: Presenters, would you introduce yourselves, please.

Ms Louise Bailey: Just before I do, could I get some clarification of how much time we have so that we can chop as necessary? Because I understand we're tight for time.

The Vice-Chair: Yes. We hope to go till 6 o'clock. However, we may be called in for a vote at—I'm not sure what time that can happen. Very soon, perhaps 10 minutes. Sorry about that.

Ms Bailey: That's all right. I am Louise Bailey from the Down Syndrome Association of Ontario. This is Lynda Langdon, who's representing the Ontario Association for Community Living today. On my far left is Andrea Bailey and this is her friend, Abigail Lapell.

What we're going to do in order to save time is basically go through a very brief opening statement. I think we will pass around some questions at the end for you that we were going to go through with you, but we hope that you will take those questions back to your caucuses, back to your Education critics and back to into the House. I think the girls have something very important to say, and since they're the children we're really talking about, we figure it's more important that they be heard than us.

Very briefly, we want to say that we're pleased to be here to give feedback around Bill 4 because, as you know, the ministry has come out with a policy related to integration, and finally integration for our children is in sight. But we also have to say that we're very tired of trying to drag out appropriate legislation from the Legislature. When we look around the table, we see

some familiar faces. You know that there have been injustices to our children for many, many years that we're hoping to redress.

Lynda and I have been at this for 10 years, when her daughter was eight months old and my daughter was two. Now our kids are 10 and 12, and we're still here.

Ms Lynda Langdon: We're tired of coming here all the time.

Ms Bailey: That's right and we'd like to do something else. We've been through three ministers of education, we've gotten three commitments to integration, and finally we have this bill, which we think deals inadequately with removing the TMR label and closing the Metropolitan Toronto School Board. It's too fuzzy. There are enough loopholes there to drive a convoy of trucks through. It appears to me and to Lynda that the TMR label is really going to go underground and resurface in another kind of dress, and that the Metro Toronto school board is going to be left with its funding and its resources intact so that boards are going to have to purchase service from it in order to integrate their previously referred to TMR students. If these students no longer exist, why do we need that board?

We have many more concerns about what's not in the bill than what's in it. Basically, why don't you take a couple of seconds to talk about that, and then we're going to shift to the girls.

Ms Langdon: We would also like to say, especially in the light of some of the previous discussions that you've obviously had this afternoon, that we do fully support the repeal of the hard-to-serve provisions. As far as we're concerned, if we can afford to spend thousands of dollars to send people to private schools in the States, we can afford to spend thousands of dollars to educate them here in Ontario. So we absolutely support that repeal.

In terms of section 8, we support the revisions, as Louise said. What we would like to see are further safeguards to ensure that the resources that are currently with those students go with them. If we're going to return students back to six boards in Toronto, we have to send the resources back with them.

One of the concerns of parents in the Metro Toronto school board for some time has been that they have inadequate access to representation, as the rest of us do through SEACs. Even though their students may be in a school building somewhere in North York or Scarborough or whatever, they aren't owned by North York or Scarborough or whatever, and so the parents don't have access to SEAC, and that's a very important vehicle for all of us as parents to use.

We also think that it's going to be extremely important—we were a little bit concerned in Bill 4, under section 9, where it just describes at the front what the bill is about. It makes reference to the fact that students

with the TR label are now going to be referred to as "exceptional pupils with developmental handicaps." We don't object to those words. Those words are fine. I think we've often said let's sort of call a spade a spade. We usually do use the words "developmental disabilities" instead, because we think our children have a disability and they only have a handicap when other people put them into a situation where they are handicapped by other people's attitudes, not by the children themselves.

Our concern is that we don't have any sort of breakdown of two kinds of groups. We often have this TR label and the ER label. Some boards call it FLS, ES, some boards call it—different kinds of things. We want to be sure that we don't subcategorize students who are now going to be not labelled by this bill, which maybe sounds a little bit backwards, but that is our concern.

Because of time, I'm not going to go over the questions that we have for you, although I really want to. If you don't get called up for that vote, I will go over some of these questions.

Our most important question is, in the light of a number of things that have happened over the years that have been very encouraging, is there any possibility that Bill 4 can be further amended to include provisions for children with exceptionalities to be guaranteed entitlement to inclusion in local neighbourhood schools with adequate supports to ensure that they have a successful educational experience? In other words, can they have what everybody else takes for granted? I'll turn it over to the girls now.

Ms Bailey: Abigail and Andrea have been friends since grade 4 and they have written presentations for you today. Abigail will also be reading a statement from Andrea's friend, Kilby McGregor, who couldn't be here today because she had to go to audition to be in a choir.

I think that when you hear from them, you will see why we feel integration is so important. We don't really need to continue to do this two-step; let's just do it now with this bill.

Andrea, I would like you to start with your speech. You want Abigail to go first? Abigail, will you go please go first.

Miss Abigail Lapell: Okay. Before I start, I'd just like to say I'm really pleased to be able to come here. I think that most of what I'm going to say today, I can probably be representing my class in most of this.

I have a few words to say, but before that I'm going to say something on behalf of my friend, Kilby Smith-McGregor, who couldn't be here today. She wrote this:

"Hi, my name is Kilby Smith-McGregor. I'm sorry I couldn't be here today but I would still like to say a few things about my friend Andrea. Andrea is an individual with her own needs, interests and talents. My school, Avondale, is an alternative school for self-

motivated learners, individuals who can work in a group. This environment is, I'm sure, as beneficial to Andrea as it is for the other students.

"In our class, we have people of different ages, different backgrounds and different strengths. The prospect that Andrea might not have the opportunity to be in our class because people tell her that she has Down syndrome really upsets me. People are uncomfortable with things they don't understand. I think knowing someone like Andrea, to know Andrea as a person, can help someone understand themselves."

Miss Andrea Bailey: My name is Andrea Bailey. I am 12. I am in grade six. I learn French, math, reading, music, science and I do lots of projects. I like to be at school with my friends. We play hide and seek, we talk and play together. We help each other.

I had lots of friends at my birthday party. We saw movies, we had popcorn and chips and drinks. We played games, pool, sat on the couch. We played spin the bottle.

If I could not go to school with my friends, I would be very sad and lonely.

Miss Lapell: Hi. My name is still Abigail and I go to an alternative school called Avondale. Like Kilby mentioned, everybody in my class is really different, from the colour of our skin to our values and beliefs. My best friend in my class, who you just heard, is a very special person to me. She has Down syndrome, but she isn't as different as a lot of people might like to think. Basically, what it means for her is that sometimes school is a lot harder. There's a lady who comes in every day and helps her with her work, and sometimes I and the rest of the kids in my class need to try a little harder to help her. But that's okay, because friends help each other.

1750

Unfortunately, there are still a lot of people from other schools who would make fun of Andrea or somebody like her, because they've never had the opportunity to understand her and maybe they never will. I think that's too bad, because I think everybody should be as lucky as I am to have a person like Andrea in their life. I'm lucky in a lot of ways. I think I'm also lucky that I understand that the disease my best friend has isn't a problem, as a lot of people would like to label it. It's just another one of the millions of things that make her an individual, like everybody else.

Ms Bailey: Great. I'm very proud of both of you girls.

Ms Langdon: We have a 30-second video that we'd like to show, but Doug has just gone into the other room to see if it can be set up. We'll see if that will work or not.

Mr Hope: Why don't you read these questions into Hansard so they are on the record, while we're waiting

for the videotape to come on?

Ms Langdon: Okay. Our first question is in view of a number of things: the public commitment to inclusion by the last three ministers of Education; their persistent promises to take the first steps towards inclusion by September 1993; the fact that Bill 4 is the first piece of legislation dealing with education in over 10 years; the fact that an amendment to the Education Act to provide for inclusion was drafted by ARCH, which many of you know is the Advocacy Resource Centre for the Handicapped, and given to the ministry in January 1991; the fact that there has been widespread public consultation on the proposed amendments to the special ed legislation—do you remember that back in 1986, a while ago?—and the fact that we've had the consultation paper on the integration of exceptional students in 1992.

A policy memorandum on integration is now under consideration, and there was a meeting of the stakeholder groups to discuss it in May 1993. We did have the intervention of the Attorney General to support Alixe Hysert's right to inclusion, in March 1991, and that resulted in a school board changing its approach to inclusive education. We also had an announcement on Saturday from the director of the special education branch. The ministry has finally concluded that integration does not cost more than segregation. Also, the ministry has done a survey of all the provinces and territories in Canada and has found that integration is the preferred mode of service delivery in every single province and territory, which was really interesting to hear from our very own ministry.

In the light of all those things, we're asking now why Bill 4 is so limited in its scope. Why is this government dragging out the process instead of streamlining it? Why does Bill 4 not include provisions to entitle all students to quality education in regular classes in their home schools, with appropriate supports to ensure a successful school experience? We think it should.

The second question is, when is this government going to bring its education policies into line with its Human Rights Code?

The third question is, when is this government going to bring its education policies into line with the policies of its Ministry of Community and Social Services? We have deinstitutionalization in community living and we think those things must be accompanied by acceptance in regular classrooms.

The fourth question is, what provisions is this government taking to ensure that resources are allocated on the basis of student need, not on the basis of student label?

Our fifth question is, when is the policy memorandum that everyone is talking about on integration going to be approved and circulated to schools? Will it guarantee that students will be entitled to attend their local neighbourhood schools? When we use that phrase,

we mean the school that a student would be able to attend if it were not for any other designation of exceptionality.

Accompanying that is question 6: When would the legislation be passed that would guarantee the entitlement of all students to quality education in their local neighbourhood schools, in regular classes with supports to ensure success?

Our seventh question is, will members of this committee recommend that the Attorney General redirect her lawyers to support Becky Till's right to inclusion? I think you're all familiar with the Becky Till situation. The standard answer is, "We can't discuss that because it's in the courts right now." I think you can ask it as a question of the Attorney General in question period. She may give you that answer, but then again, she may not. I think it's a question that has to be asked and we would certainly appreciate somebody asking it on our behalf, because we can't walk in there and do that; you can.

The eighth question is, what guidelines will accompany Bill 4 to ensure that school boards do not replace the "TR" label with any other label? What procedures will be enacted to ensure that students formerly labelled "TR" will continue to receive adequate resource support? Will this government ensure that students formerly labelled "TR" will be welcomed into their local neighbourhood schools and regular classes?

Our final question is, will guidelines be developed to accompany Bill 4, to guarantee that it will transfer full responsibility for students formerly served by the Metropolitan Toronto School Board to the local Metro boards? What provisions will be made to transfer resource support directly to those local school boards? In the light of that, our recommendation, just so that it's on the record, is:

We recommend that Bill 4 be amended to include the entitlement of all students to quality education in their local neighbourhood schools in regular, chronologically age-appropriate classes with sufficient supports to ensure a successful educational experience.

I think we're very much on the right track. It's just a question of moving ahead and getting there. We just have to move a little bit more and get there, tighten things up and make it happen.

Ms Bailey: We'd like to show you a very quick video, and I have to give a cue to broadcast this. Do we work it from here? Great.

[Video presentation]

Ms Bailey: We had planned to present the Chairperson of the committee with a collage of all the children here, but we understood that we weren't allowed to take pictures, so you're going to have to do without your present. But perhaps while we're here, we have a few minutes for questions, because I can see that

it's about two minutes to 6. If there's anything that you want to ask, we can follow up from there.

Mr Hope: Do you have the children here? Why don't you bring the children in so the television camera can be focused on the children?

Ms Bailey: They're in the audience, so I don't know if they particularly—

Mr Hope: If they want to walk up here, so that they can be a part of the television.

Ms Langdon: Sure. Would you like to come up?

Mr Beer: Mr Chair, there is a minute for a question. Can I just ask, because I think this is important that we understand—you have said that you want the "hard to serve" designation removed. We've had testimony from other individuals and groups earlier today who are saying, "Look, we believe that we need that for some perhaps more extreme or most extreme cases."

I just want to be clear, because I don't know that you and they are necessarily in opposition to one another. Can I just ask you to clarify that? Because if I've heard from the other groups today, it is, please don't remove that one element which can allow in probably limited cases, but none the less allow for a proper program that in their view can't be offered elsewhere.

If that were to continue, how would that affect what you're requesting? I don't necessarily see that they're in contradiction, but I just want to be very clear on that.

Ms Langdon: It might affect our kids and it might not. One of the things we've lived with for so many years is the fact that the onus of deciding what happens to our kids is always in somebody else's hands. We never get to make that decision. Somebody else gets to make that decision. We have an IPRC process, we have an appeal process, but I think you're quite familiar that those processes have always been stacked against parents.

One of the things that Louise and I and a number of other parents have always had to live with is fear that somebody somewhere is going to make a decision about the severity of our children and say, "No, no, no, they can't come here." That's a very real fear, because it has happened to a number of kids.

1800

There are very few children that we know of who have Down's syndrome or who have other kinds of developmental disabilities who are in really good inclusive situations. So when we've, in the past, looked at something like "hard to serve," I understand that these other parents are saying they need it for their particular kids. We've seen it as a way that somebody might try to keep our kids out and a way that somebody might try to exclude our kids. That is very scary for us, because we are so used to people trying to exclude our kids that when we see the government saying, "Let's get rid of it," we say, "Great idea; we'll support that." That

is an easy one for us.

Ms Bailey: We support it on principle, because we see it as a threat.

Mrs Cunningham: Just a statement to support Mr Beer. Would it be fair to say that some of the parents who are asking for this clause really want their children to be dealt with in individual ways, at least for part of the day, whereas you are looking for inclusion for your students—more so, integration of your students?

Ms Langdon: I can't speak on behalf of the other parents. I don't know what they're after.

Mrs Cunningham: I think that might be it.

Mr Beer: I think this is just an important point, because I think what the other parents were saying today was that they saw that as providing something that otherwise wouldn't be there. I suspect if we had them back at the table, they would be saying, "Hey, we don't want you to be excluded." Perhaps one of the things as a committee we need to struggle with is how we can assist both of those possibilities. I appreciate the points that you make in clarifying how you came to that.

Mrs Cunningham: I'm glad Mr Beer and the representatives had that opportunity to put those statements on the record. I think what we're finding out here during this discussion is that what we really ought to be doing—I know we probably should have done it a long time ago—is taking a look at how the special education advisory committees are working and whether we can make recommendations for improvement from board to board and throughout the province. Also, when we are looking at the IPRCs, let's take a look at how they are working. We are long overdue for that kind of a study.

One of the things that I think should be happening is we should take a look at where we have systems that are working in this province. School boards do a very good job, and we should be taking a look at that. I can say, as a parent whose child has been special and who has had to see him through many years of individual placements, that I was asked, maybe because of my own personality and the fact that I've been privileged to be involved as a school board trustee when my children were very young. Sometimes you gain in confidence. You also have the opportunity to travel this province and learn how other parents have dealt with things. You've been around for some 10 years and I've been around longer, a lot longer.

Ms Langdon: We could discuss that further, I'm sure.

Mrs Cunningham: I can see yourselves and the exceptional contributions that your young people have made to all of us today. Clapping isn't on Hansard, but we would all like it to be entered.

I was a part of the committee, because I demanded, for whatever inner strength I had—because that's what

it takes—to be part of it, and over a period of time the educators were not as defensive about it. Therefore, I was asked what I thought should happen. But I also sat on the committee before my child was injured and became special, when I did what I was told and watched the education community always make the recommendations with very little input from parents. Until it happened to me, I wasn't able to be part of it. I just couldn't. Even then, it took me many years to be able to speak on behalf of my own child. I'm just saying that I'm so glad that you're here speaking on behalf of the special kids that you represent and their families.

Ms Bailey: I'd just like to make the comment, if I could have a few seconds—I'm mindful of the bells—that when you talk about looking at SEACs and IPRCs, we couldn't agree with you more. However, I think that the way those committees operate depends very much on the overall framework of how we view children. Once we are looking at a framework where everyone is integrated, then I think their functions flow very differently. So I think first we need to look at that global issue and meeting the right, the entitlement, to integration in the regular classroom in neighbourhood schools, and then everything else flows very nicely from there, and with parental input, because I think we look at parental input differently when we look to educate and include children and value them, because then we value the input their parents bring with them.

Mrs Cunningham: You mean integrated as far as possible? Some of the parents who came here today for a period of time asked that their children have individual programs because of their behaviour programs—

Ms Bailey: Our position, yes; but our position for our group of children is total integration.

Mrs Cunningham: And that's why I think that Mr Beer asked the question, because there are different needs.

Ms Bailey: Yes.

Ms Langdon: I don't think the question of inclusion precludes individual programs.

Mrs Cunningham: No, I agree.

Ms Langdon: We are talking about modified programs for a number of children.

The Chair: There are two people talking at once, I'm sorry. You must slow down. Did you want to finish up?

Ms Langdon: No, I think the point—

Mrs Cunningham: It is important to get that on the record.

The Chair: Mr Martin, and then we must go, I understand.

Interjection.

The Chair: We're using it to good advantage.

Mr Martin: If I might just say that it is certainly the

intention of the ministry to try to make the publicly funded school systems in Ontario the best that they could possibly be and to change it such that they will in fact be able to offer the kinds of services that are needed by students to students in their home communities and in their home schools, if that's possible. This piece of legislation is an attempt to pave the way somewhat because there is a bigger piece coming under the guise of the integration memorandum that you've been referring to, that this will hopefully open some doors towards.

The Chair: Thank you. Did you wish to just respond quickly?

Miss Lapell: Just before we go, I just want to say I hope that you really have listened and heard what me and Andrea have to say today because we're not really talking about laws and rules; we're talking about real feelings that we really have. So I really hope that you listened to that and take that into consideration.

The Chair: I want to assure you that we listened intently and it will be considered.

Ms Langdon: If I could just briefly respond to Mr Martin's comment, I appreciate the fact that you're speaking on behalf of the government and saying that

you're moving in that direction. One point I really have to make, though, is this one: When I hear the term "community school," I get very scared because one of the things that's beginning to happen is that people are saying, "Oh, we'll have a community school for the gifted and we'll have a community school for the learning disabled and we'll have a community school for people we used to call TR." That is not what we're talking about. The phrase "local neighbourhood school," a school the student would attend without the designation "exceptional," is key to the whole thing. It just won't work otherwise. We have too many directors of education and people who still don't want our kids, as Abigail well knows, that they will find loopholes in that and they will keep our kids out. So the phrasing in that policy memorandum is really, really critical.

The Chair: Thank you for your presentation, and I want to thank Andrea and Abigail for their presentations. They did extremely well. Thank you for coming before us. In view of a call to the House for a vote, the standing committee on social development on Bill 4, An Act to amend certain Acts relating to Education, stands adjourned.

The committee adjourned at 1808.

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Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 14 June 1993

**Standing committee on
social development**

Education Statute Law
Amendment Act, 1993

Chair: Charles Beer
Clerk: Douglas Arnott

Journal des débats (Hansard)

Lundi 14 juin 1993

**Comité permanent des
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 14 June 1993

The committee met at 1546 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Resuming consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Ladies and gentlemen, I call the standing committee on social development to order. We are holding hearings on Bill 4, An Act to amend certain Acts relating to Education.

WELLINGTON COUNTY BOARD OF EDUCATION
WELLINGTON COUNTY ROMAN CATHOLIC
SEPARATE SCHOOL BOARD

The Vice-Chair: The first presenter is the Wellington County Board of Education. Would you come forward to the seats at the end, please, and introduce yourselves. Proceed with your presentation. You have about 20 minutes. If there is time, there might be a few questions. I'm sorry we are getting started as late as we are.

Mr Donald Ross: My name is Don Ross and I am chair of the Wellington County Board of Education. With me is Father John Lambertus, who is chair of the Wellington county separate school board. We will both be presenting here this afternoon.

The Vice-Chair: Welcome, and proceed.

Mr Ross: If I might start, I believe you have been given a copy of this, so I will go through it with you. I want to thank you for allowing the Wellington County Board of Education to make a presentation to you this afternoon concerning Bill 4, An Act to amend certain Acts relating to Education. The Wellington County Board of Education wants to specifically address the requirement to provide a junior kindergarten program by September 1, 1994.

Even though we understand that a board may apply, provided certain, as yet unannounced, regulations are met, to phase in the requirement of junior kindergarten until September 1, 1997, the Wellington County Board of Education has grave concerns with providing the program in Wellington county by the 1997 date.

Before I outline the concerns, I wish to emphasize that the Wellington County Board of Education is not opposed to junior kindergarten being offered where it is needed in the province. We believe that school boards should have the option of providing programs such as junior kindergarten when they are needed or wanted, and at the same time the option not to offer a program if it is not needed nor wanted.

The first concern in providing a junior kindergarten

program is cost. The Wellington County Board of Education has been a growth board, averaging a 3% to 4% student increase each year for the last several years. As a result, our schools are full and we are using 190 portables to accommodate our students. A junior kindergarten program with 80% of the eligible students attending a half-time program will result in about 750 full-time-equivalent students, or an additional 3% to our student numbers.

A facility study completed in 1990 estimated that we would need at least 30 additional classrooms. The estimated cost of these is \$5 million to \$6 million. The normal operating costs of the program are conservatively estimated at \$4.5 million per year, resulting in a total startup cost for the first year of \$9 million to \$10 million.

The Ministry of Education and Training does offer capital grants for junior kindergarten facilities as well as some classroom startup costs and the regular per pupil grant for operating costs. However, this money comes from the total available for education in the province, which the ministry and current government is in the process of drastically reducing. We have been told that grants for remedial summer school, for elementary school and ESL students are eliminated, programs that are highly regarded and needed in our area, but that there are grants available for junior kindergarten.

Similarly, in our request for capital funding we asked for senior kindergarten rooms for six schools that currently are being housed in less than ideal classrooms; in other words, no washrooms and they are undersized. This request was ignored and instead we were granted money for 14 junior kindergarten rooms, money which we have not yet accessed because our board has experienced no demand for this costly program.

Currently, provincial spending on education is being flatlined or maybe even decreased over the next four years. Provincially, as student numbers grow by 2% per year in the province, the addition of at least another 3% caused by junior kindergarten enrolment, making a total of 11% growth by 1997, will place an unbearable burden on the local property taxpayer.

As well as the cost of additional facilities, we have a few elementary schools where there is simply no room for additional students due to site size, septic capacity or hydro services. Already we have transported some grade 6s from their neighbourhood schools because of overcrowding. Junior kindergarten will only displace more students from their home schools and exacerbate tensions among parents.

The second concern with the junior kindergarten program is more philosophical. The Wellington County Board of Education believes strongly that the ideal

situation for a developing four-year-old is in a caring family environment. We recognize, however, that this is not always possible, but we feel that, if society must provide help to four-year-olds, it should be through licensed child care centres or nursery school programming, not through an institutionalized school setting.

First of all, teachers are not trained to deal with this age group of children, whereas early childhood education graduates are specifically trained for this role. Secondly, child care or a nursery school can offer everyday, half-day programs, rather than the full-day, alternate-day junior kindergarten programs that are found in many school boards. The adult-to-child ratio of eight to one found in child care is much better than the 20-to-1 or greater ratio found in junior kindergarten.

As well, we would suggest that under current regulations the government could get a greater value for the dollars spent by investing in subsidized child care or nursery schools than in a junior kindergarten program in public schools.

In the literature review of head start programs, there is found to be no difference in student achievement after the first three to five years in school. It is generally agreed that there is a far greater improvement when intervention takes place when the child is two to three years old than when the child is four to five years old.

I want to address the question of equity or accessibility to programs in Wellington county. The residents of Wellington county have chosen to live in Wellington for many reasons, a lot of them because it is an excellent place to raise a family. If they had wanted junior kindergarten, they would have only had to select a home 10 minutes away and they could have had the program. It is offered all around us. There has not been a local demand for the program. Just as I live in a rural area and do not expect garbage pickup and municipal police protection, people do not expect junior kindergarten in Wellington county. We choose to live where we are and are happy with it, with all the services that may be available in other areas.

Not only is there no demand for junior kindergarten, there's a great deal of opposition to it from the local taxpayers. The Wellington County Board of Education has been supported in its stand today by 22 municipalities in the county. I have with me copies of motions that were passed by 18 of them, which I'll give to you later. As well, we have received letter support from the Arkell Women's Institute and other individual taxpayers. They are telling us that we cannot afford this program, whether it's paid through local property tax or provincial taxes.

The Wellington County Board of Education also has the support of three teacher federations: Ontario Secondary School Teachers' Federation, District 39; Ontario Public School Teachers' Federation, Wellington District;

and the Wellington County Women Teachers' Association. They are united in saying that we cannot afford junior kindergarten at this time.

We are unique in Wellington county in that our coterminous board, the Wellington county separate school board, is the only separate school board in this province which does not offer a junior kindergarten program. This further illustrates the lack of demand for the program in Wellington county.

In conclusion, I want to say that school boards in this province have never been remiss in moving ahead with optional programs for the good of students. I can name a few of these, some of which originate in Wellington county, such as cooperative education and the school-workplace apprenticeship program, and some, such as French immersion, reading tutors and breakfast programs, that originated in other boards and that we have imported to Wellington county for the benefit of our students.

We will continue to seek ways of improving programs for students. We just ask that the mandatory aspect of junior kindergarten by 1997 be deleted, to allow us to choose if and when the program is necessary in Wellington county.

The Vice-Chair: Thank you. Father Lambertus, do you wish to proceed?

Rev John G. Lambertus: I'm here representing the Wellington county separate school board, and I must say up front, in addition to the one-page letter that has been circulated to the committee members signed by myself, I want to emphasize that we have had a very close working relationship with our coterminous board in Wellington county. I think we in the separate school board are proud of it and I think the people on the public board are proud of it as well, that it is a very good working relationship. I've been involved in school boards in other communities and I think it's the best working relationship that I've seen in a long time.

We are here today as a representative of the separate school board supporting the submission that has been placed before this committee, and you can see the reasons outlined. We at the separate school board support their request that the mandatory aspect of a junior kindergarten program by 1994 or 1997 be deleted to allow coterminous boards to choose if and when the program is necessary in Wellington county.

We support this recommendation for the following reasons, which are basically the reasons that you've heard from Mr Ross:

Because of the cost of such a program in this time of grave financial restraints, and every day the grave financial restraints seem to get more difficult all the time.

Implementation of such a program, because of

government cutbacks, would impose a serious financial burden on the local taxpayer who is suffering from heavy local taxation at this time of recession, and I hear this not only through the separate school board but through my position as a community leader in one of the parishes in the city. Education taxes are high enough.

To date our board has not been requested by anyone to implement a junior kindergarten program anywhere in the county, and I think our board has also taken a stand where we want to work closely with our coterminous board if and when junior kindergarten would be implemented when people are asking for it. We've had letters from the same municipalities voicing their opposition to the implementation of such a program at this time and they've made their intentions known to our board as well. They are telling us that we can't afford it.

We want to make it clear that we are not in any way opposed to junior kindergarten where it is needed and requested. We are of the firm belief that at this time in educational history in the province of Ontario boards should have some flexibility in providing educational programs that are needed and are within the financial means of a given board to provide. We're all aware that through legislation senior kindergarten is not mandatory, as kindergarten is not mandatory.

We feel that we should have the opportunity as two coterminous boards to implement such a program if and when it's requested and we can afford it. We ask that you give serious consideration to the submission of the Wellington County Board of Education. In the amendment of certain acts relating to education as contained in Bill 4, please hear our concerns regarding the mandatory implementation of junior kindergarten.

Respectfully submitted by myself on behalf of Wellington county separate school board.

The Vice-Chair: Thank you for your presentation. We've very limited time for questions, but we will entertain one per caucus perhaps. Ms Witmer.

Mrs Elizabeth Witmer (Waterloo North): I certainly want to congratulate you, Don, and also you, Father Lambertus, for the excellent relationship that you have established. As a former teacher with the Wellington board and as a chair of the Waterloo board, I'm well aware of the way you have developed that close relationship.

I think your presentation is pretty straightforward. You're indicating that you don't want the government to mandate JK and instead you've indicated here that you would prefer that the grants be used for such things as the remedial summer school program for elementary school and ESL students.

I listened to the minister on Saturday morning as he spoke to the OPSTA delegates and he indicated at that

time that he wanted to listen to parents. Now, it's obvious that the parents in your community have indicated that they don't want junior kindergarten. Do you anticipate that at some time there will be a request for junior kindergarten, or has this been a consistent message that you've been receiving?

Mr Ross: This has been a very consistent message for us, though I think, to be fair, that if a program is offered which would, in other words, provide free day care which they might currently be paying for, it has been shown across the province that students will attend it. But there has been, as Father has said earlier, no demand come to either board in terms of wanting a junior kindergarten program implemented now.

Mrs Witmer: And you've seen the same thing, Father Lambertus?

Rev Lambertus: Yes, we've had delegations on many other things, but we haven't yet had delegations demanding junior kindergarten.

Mrs Witmer: I hope the minister does listen to what you've indicated here and I hope that he will not make it mandatory, since, if we're going to really respect the wishes of the local community, we need to listen to what has been said here. Thank you for your presentation.

The Vice-Chair: Thank you. Any other questions? None at this time? Thank you for your presentations.

Rev Lambertus: Thank you very much for the opportunity to speak to you.

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ROGER AND DONNA BORLAND

The Vice-Chair: The next presentation is to be made by Roger and Donna Borland. Would you come forward, please. We have 15 minutes; hopefully, there'll be time for questions following the presentation. Introduce yourselves for Hansard and proceed.

Mr Roger Borland: Mr Chairman and committee members, we thank you very much for giving us the opportunity to speak before you today. This is my wife, Donna, and my name is Roger Borland, and we're from Woodstock, Ontario. We have a very special interest in Bill 4 and the removal of the hard-to-serve section from legislation.

Our son is a 13-year-old, normal-looking boy who has auditory processing difficulties and dyslexia. He has been a pupil of the Oxford County Board of Education since September 1985. They have not been able to provide him with an appropriate education.

From as early as kindergarten, Travis was recognized for his handwork and for what some teachers have described as his exceptional ability in art, with outstanding attention to detail and thought. He quickly fell behind for his age in language and math abilities and, as time progressed, his social development became worse. He began acting out in class and was easily distracted.

In 1988, Travis was tested by psychological services of the board in response to concerns expressed by his teachers at Hillcrest School about difficulties he was experiencing in the classroom. These assessments identified Travis as having a learning disability. He was assessed as being below the normal range for his age in reading, writing, spelling and math abilities.

In November 1988, an audiology report from University Hospital in London established that Travis had marked difficulty filtering noises and selective attention, auditory closure. Travis was independently tested in May 1988 as being at an academic level of grade 2.2, placing him approximately one half-year behind his expected level.

As a result of these assessments, it was recommended that Travis be placed in a controlled learning environment, free from the distractions of noisy classrooms which inhibited his progress. Consequently, he was placed in a program in which he remained in his regular classroom and was withdrawn on a part-time basis to receive remedial assistance. Although Travis has shown virtually no progress since 1988, the amount of remedial assistance he has been receiving has decreased.

Travis tried various placements with the schools and transferred to a couple of schools within the school board. Over the course, he has moved along with the system, and his access to the remedial assistance has decreased that which was originally provided for him after the first assessment.

Over the years it became clear to us that Travis was making little progress in school and was consequently becoming frustrated. By the fall of 1992 Travis was experiencing increasing behavioural problems and had become depressed to the point of suicidal thoughts. After attempts to address these problems in conjunction with the teaching staff at Central School and officials from the board proved inadequate, we sought external help.

In 1993, we arranged for an independent assessment of Travis by a psychologist. This assessment found that Travis had still not progressed past grade 3 in many of his language skills, indicating a virtual absence of educational development over a period of nearly five years. He is now in grade 7. I want to note that in grade 2.9 he was only a half-year behind. He's now four years behind.

This assessment cited numerous ways in which a regular classroom atmosphere stunted Travis's development, given his particular learning disabilities. It further outlined the resulting distress and frustration caused to Travis by his inability to profit in such a classroom and emphasized that his lack of progress was not attributable to a low IQ.

This report also stated that Travis's special needs could not be provided for in a regular classroom nor

with the limited access to remedial support which he has had to date. This also confirmed the results of the earlier assessments conducted by the board.

Although Travis was identified as a student with exceptional needs in 1988, he has never been provided with appropriate or adequate support to meet these needs. We don't blame the teachers. We know they have done the best they could, but they have neither the resources nor the training to succeed with my son's education.

In addition to failing to provide the adequate educational services to Travis, considering his learning disability, school officials have singled him out to punish him for behaviour related to this disability. He is routinely excluded from classes when he is deemed unable to cope with activities undertaken within them. During the period of March 8, 1993, to April 15, 1993, he was excluded from classes no less than 12 times, often for the entire class. Such treatment exacerbates the difficulty Travis already has in profiting from his school work.

Given Travis's inability to derive benefit from the services offered by the board, combined with his being excluded for behaviour related to his disability, on March 27, 1993, we requested that the director of the board strike a hard-to-serve hearing, as provided for in section 35 of the Education Act. To date, the school board has not arranged for such a hearing. The last letter received was on May 27, 1993, stating:

"We note that Bill 4, which has already received first and second readings in the Legislature, will abolish section 35 of the Education Act and, presumably, bring an end to the process or recommendations of the committee to be engaged. Therefore, we are wondering whether any consideration has been given to the fact that efforts and costs expended in this direction may be wasted at such time as the bill becomes law and whether or not any alternative procedure for consideration of Travis's educational needs might be substituted for the hard-to-serve procedure."

They are denying us a remedy that already exists in the Education Act.

In conclusion, I would like to say that my son isn't failing the system, but rather, the system is failing my son. Very few people know that this legislation exists, and the few people who know about it have great difficulty using it because of misinterpretation by the boards and by the ministry.

The ministry says this legislation is being used as a loophole and that it is not being used for the purpose for which it was intended. This couldn't be farther from the truth. This is my son's last hope. We didn't take this option until everything else had failed. If allowed to take section 35 out of legislation, the ministry will be condemning my son and all the rest of these children to

life: life without any chance of a helpful, productive or meaningful existence, one that could lead to suicide, welfare, prison, vandalism and/or depression.

If this is a loophole, then why do I have to sacrifice our home and everything we've worked our whole life for to pay for an education that should have been provided for Travis by the system?

The school board has said to us that our expectations are too high. The school board has no expectations for my son. Compared to them, my expectations are high: no less than a grade 12 education.

Please give my son a chance, and in five years we'll gladly come back and show you the positive results. Please don't take the hard-to-serve section out. Rather, make it more accessible to the many children who need it.

Some of my son's recent comments to his mother are, "Mom, if I died, all your problems with the school would go away." He's said this not once but many times. "Mom, if I died, you would not have to sell your home to pay for my education."

I'd like to give you some points of interest here. No one has won a hard-to-serve case since June 1992. I'd like to ask this committee to think about why that's happened. I think these cases should be reviewed by this committee. Why is the hard-to-serve committee made up of two people from the school system? We believe there should be a time limit for hearings to be heard, because the child's needs need immediate attention.

For the ministry to call this a loophole and deny my son this remedial help or to take away a benefit from a learning-disabled child is akin to denying someone with leukaemia a bone marrow transplant. The process may be painful and expensive, but without it that person will surely perish. With it, there is a 60% to 80% chance of a successful and profitable future.

One other point of interest: We received a letter today from the board of education; it was actually a bill. A month ago, we asked them to give us photocopies of all the notes they had by all the professional staff. We received that. We just got a letter today asking us to pay for all those photocopies and the rest of the notes we got. That bill came to, what, \$86?

Mrs Donna Borland: Yes, \$86.60.

Mr Borland: It just goes to show you how vindictive the school board is.

We'd like to thank you.

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The Vice-Chair: Thank you for your presentation. Questions?

Mr Gilles Bisson (Cochrane South): I don't want to pretend to be an expert on the subject, because obviously I'm not, but from what I understand of it—I worked with the Centre Jules-Léger, which is a centre

that provides special needs in terms of education to various people within the community of Ontario: deaf children, people with learning disabilities etc. The thing that struck me is that this whole hard-to-serve issue, to me, is one that really hasn't worked for parents. What I ask you is that if this system doesn't work—because you're right: it's only been used, I think, six times since the legislation's been out—

Mr Borland: Excuse me for interrupting, but you said it doesn't work for the parents. Have you got a list of parents who have complained about it?

Mr Bisson: I've talked to people—that's what I'm saying—in the meetings I've had. What some of the people who have been involved in this field for a long time advocate is that we need to put something within the education system itself that deals with this, so we don't have the type of travesty that's happening right now, where parents have to go and do exactly what you're doing in order to get what their children are entitled to. I'm asking you, do we need to do earlier intervention in the school system? What do you do? It doesn't seem to work now. That's what I'm asking.

Mr Borland: Intervention has to be as soon as possible. When you let a boy or a girl go until they're age 14, or age 13 like my son, you have very little time left. They have to be dealt with, especially before they get into high school, or it's going to be too late, the behaviour problems are going to become so extreme. With some of these kids, the damage is so bad they become school-phobic; they're petrified of schools.

Mr Bisson: I understand that.

Mr Borland: There are possible ways; it could be remedial within the school system. But we're going to have to have some people go out and take a look at the schools that are successful, the private schools that are actually turning these students out and making them profitable adults who actually go out into this world and succeed. That's not happening in the public school system. There are private schools out there turning out between 50% and 70% of their students, with severe learning disabilities, who are going on to university degrees. I'd hate to say what the statistics are for the public school system for these kids right now.

Mr Bisson: I'm not going to get into the debate. The problem we have—I'm looking at the Chair for a bit of direction. Do we have time?

The Vice-Chair: No, we don't. We should move on.

Mr Dalton McGuinty (Ottawa South): Mr and Mrs Borland, let me take the opportunity first of all to thank you for appearing before our committee and for helping us understand in a very real way what happens out on the front lines. It's one thing for us to discuss these concepts in the abstract without gaining a real understanding of their implications.

I want you to describe for me, please, Travis's prospects if this hard-to-serve category is eliminated. What does life hold for him, first of all in the school and then beyond that?

Mr Borland: In my estimate, if Travis is forced to stay within the public school system, he has no prospects. He is contemplating suicide and he has already come up with a plan. You don't know what it's like to listen to your son going to bed every night saying: "You know, this is too much. I'm a drag on you." He feels bad about himself, that he's ugly. "Why haven't I got a body like my brother?" He's just totally down and out. There's nothing left. Right now, he's looking forward to the prospect of going to a private school. He wants an education more than anything else, and he wants to succeed.

By all standards and by all means, he's not dull, because in my consideration a dull person doesn't care. He cares very much. Travis is very intelligent. His artwork has been astounding and he amazes an awful lot of people. Only a month or so ago, his teachers actually requested him to do some drawings when they went to see Phantom of the Opera here in Toronto; he did some special drawings for them for open house. He's a very gifted child, but he hasn't a prayer in the public school system.

In a private school, I would say he has probably a 60% chance or better to receive a college or university education, and that's what we're looking forward to: a minimum of a grade 12 education so he can go out and find a job.

Mrs Witmer: Thank you very much for your presentation. You wondered why the hard-to-serve hasn't reviewed any cases. It's because this bill, actually, is retroactive to June 2, 1992.

I guess what's so extremely unfortunate is that this government, as it's prone to do on each occasion, decides to make changes without putting in place a mechanism that's going to protect individuals like your son. It's obvious that the school board you're with is unable to provide him with an education appropriate to his needs, and I think that's a reality today. School boards as of today have been forced, because of the social contract, to further drastically reduce their programs and their services. As a result, we're going to see more elimination of special education classes, and for students such as your son, he's going to be the one who suffers the results.

I would encourage you to keep fighting. I would encourage you to keep fighting this government, and I hope this government recognizes that students are not all equal. You can't dump them all in one class and assume they're going to learn at the same rate. They do have individual needs and, unfortunately, your son's simply not being given that opportunity at the present time. So don't give up the battle. Hopefully, this

government will demonstrate that it truly is compassionate and understand that there are different needs for different students.

Mr Borland: We don't want to give up the battle. I'm hoping we can actually improve on section 35, certainly not abolish it or take it out of the act.

Mrs Witmer: Well, if they're going to take it out, there needs to be a viable alternative to help individuals such as your son, and that's definitely not in place at the present time.

Mr Borland: I agree.

The Chair: Thank you for your presentation.

Next, perhaps Mr Gardner would like to comment on the details of the presentation he's handed out.

Mr Bob Gardner: The clerk has distributed a collection of newspaper articles on the 25 boards that have been identified by the ministry as expecting to have difficulty implementing JK by September 1994. The covering memo is self-explanatory. There they are, for your background.

RÉSEAU ONTARIEN DES SERVICES DE GARDE FRANCOPHONES

The Vice-Chair: The next presentation is to be made by the Réseau ontarien des services de garde francophones. Welcome.

Mme Claire McCullough : Bonjour. Je vais parler en français, s'il vous plaît.

M. Bisson : Avez-vous amené des copies ?

Mme McCullough : En français, pas en anglais.

Mon nom est Claire Parent-McCullough. Je suis la directrice générale du Réseau ontarien des services de garde francophones. Au nom du Réseau, je désire remercier les membres du standing committee on social development de nous permettre de nous exprimer sur le projet de loi 4, principalement sur l'article qui parle des garderies, paragraphe 29(3) du projet de loi.

Il y a presque un an, jour pour jour, le Réseau présentait un mémoire lors de la consultation provinciale sur la réforme des services de garde en français en Ontario. On apportait la perspective francophone au dossier des services de garde.

L'accès aux services de garde d'enfants revêt une importance capitale pour la communauté francophone. En effet, les Franco-Ontariens ont reconnu depuis longtemps que les services de garde jouent un rôle primordial dans le développement de l'identité de leurs enfants, en plus d'adresser la survie de la communauté franco-ontarienne. Les expériences préscolaires que vit le petit Franco-Ontarien sont déterminantes pour son avenir en tant qu'individu et membre actif de la communauté. La garderie doit permettre à l'enfant franco-ontarien de se reconnaître comme francophone. Sinon, il perd son identité, sa langue et sa culture, et s'assimile très rapidement.

Malheureusement, les statistiques démontrent que le taux d'assimilation des francophones en basse âge est à la hausse. De plus en plus d'enfants ont déjà perdu leur langue maternelle, même avant d'entrer à l'école, parce qu'il n'y avait pas d'accès à des services de garde, entre autres. Un grand nombre d'enfants aussi proviennent de foyers mixtes, et à cause de cette situation, ne peuvent s'exprimer adéquatement en français.

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Dans le but d'éliminer le retard linguistique des enfants, les conseils scolaires et les sections de langue française attribuent des fonds, déjà minces, aux programmes d'actualisation linguistique. C'est pourquoi nous retrouvons dans nos écoles de langue française de nombreuses et coûteuses initiatives pour re franciser et réévaluer les enfants durant les années préparatoires. Malgré les programmes mis de l'avant par les responsables de l'éducation en langue française, la situation ne pourra être corrigée que si le gouvernement s'engage et reconnaît l'importance des services de garde de langue française.

Pour vous présenter brièvement la situation actuelle, présentement en Ontario, il y a 64 services de garde de langue française, de tout genre, à partir de la prénatale jusqu'aux services parascolaires, en passant par la garderie ; 69 % des services de garde francophones sont en milieu scolaire. Des 2841 places prévues au permis, 87 % sont occupées. Il y a, par contre, 1388 enfants qui sont actuellement sur la liste d'attente. Sachant que chaque service dessert en moyenne 44 enfants, on déduit que 31 centres seraient requis pour combler les besoins. Par contre, ça ne veut dire que les gens qui sont sur la liste d'attente. Les autres qui ne sont pas encore d'âge ou qui ne sont pas démontrés sur papier ne sont pas comptés.

De plus, en comparant la situation avec celle de la communauté anglophone, nous constatons que celle-ci est trois fois mieux desservie que la communauté francophone. D'après les prévisions du Réseau, si tout va bien, d'ici la fin des années 1990, nous pourrions retrouver près de 85 centres de garde.

La planification et la mise sur pied d'un service de garde de langue française n'est pas différente de la démarche entreprise par les anglophones. On doit démontrer le besoin, trouver des locaux, préparer la programmation, recruter le personnel, présenter la demande au ministère des Services sociaux et communautaires et planifier les activités de prélevement de fonds.

Lorsqu'une garderie ouvre dans une école, le conseil scolaire de langue anglaise place une annonce dans les journaux et demande un opérateur pour le service. À ce moment-là, on pourrait avoir, par exemple, YMCA ou PLASP, qui est une organisation qui met des services de garde sur pied etc — des groupes semblables. C'est le groupe expérimenté qui met le projet en marche.

Pour les francophones, c'est différent. Leurs structures sont inexistantes, et nous devons recruter des parents, bien voulant, bien volontaires, mais sans expérience, former le comité de gestion et commencer à zéro. Or, bien souvent des projets valables sont en veilleuse parce que ça prend du temps à établir le comité, l'informer et mettre en branle tous les rouages de gestion d'une petite entreprise qu'est la garderie.

Le projet de loi 4 permettrait aux conseils scolaires d'opérer une garderie. À notre avis, la section de langue française devrait avoir la même prérogative. À la lumière de ce que nous avons dit plus haut, il est de première importance que le gouvernement ontarien permette aux sections de langue française, qui le désirent, d'ouvrir, d'exploiter et d'entretenir des garderies de langue française dans leurs écoles.

Selon nos expériences, les conseils scolaires ne sont pas tous en faveur d'ouvrir des garderies, et encore moins des services de garde de langue française. Les conseillers scolaires francophones auraient bien des difficultés à faire valoir leur point lors des réunions plénières d'un conseil récalcitrant.

Les francophones ont démontré à maintes reprises qu'ils sont capables de gérer leurs institutions, et la gestion de garderies viendrait compléter la gamme de services qu'ils opèrent déjà.

Nous proposons donc que le gouvernement de l'Ontario tienne compte de la spécificité des services de garde de langue française dans toutes les mesures qu'il appliquera dans le projet de loi 4, qui vise à modifier les lois en ce qui concerne l'éducation, et qu'il permette non seulement aux conseils scolaires de langue française mais également aux sections de langue française d'ouvrir, d'exploiter et d'entretenir des garderies.

En conclusion, parmi toutes les étapes qu'un enfant aura à franchir au cours de sa vie, les années passées en milieu de garde sont sans doute les plus marquantes. C'est là que ça commence.

Si la communauté franco-ontarienne compte se réaliser pleinement, tant sur le plan individuel que collectif, si elle compte contribuer et participer pleinement au développement économique et social de la province, il est clair que chacun de ses membres doit partir d'un bon pied.

Nous demandons au gouvernement de saisir l'occasion offerte par ce projet de loi 4 et d'assurer à la communauté franco-ontarienne sa juste place au sein de l'Ontario de l'an 2000.

Merci.

The Vice-Chair : Merci. Questions?

M. Bisson : Premièrement, j'aimerais indiquer que, comme vous le savez, à Timmins on va avoir, au mois de septembre, notre première garderie francophone, dans une ville qui est bien proche à 50 % francophone. Ça a pris du temps, mais finalement on en a une. Merci

beaucoup pour votre appui, votre aide pour être capable de faire de cette initiative une réalité, parce que je sais bien que le Réseau y jouait un rôle. Je peux vous dire que le comité à Timmins a travaillé très fort. Vous avec du bon monde dans ce coin-là, Jean-Pierre Nadeau et autres.

Mme McCullough : Merci.

M. Bisson : La question, c'est plus un commentaire qu'une question. Je comprends et appuie votre situation. Vous parlez, par exemple, d'une commission scolaire où les francophones, ou les anglophones dans certaines situations, se trouvent minoritaires et que l'on doit leur donner le même droit sous la loi. C'est quelque chose qu'on comprend, quelque chose qu'on veut être capable de rectifier dans les amendements de la loi. Je veux juste indiquer qu'on a entendu le message. Il y a eu une omission. Je ne sais pas pourquoi, mais c'est quelque chose qu'on a poigné puis on a souligné tout de suite et quelque chose qu'on est capable d'arranger.

The Vice-Chair: Thank you for your presentation.

FEDERATION OF WOMEN TEACHERS'
ASSOCIATIONS OF ONTARIO

The Vice-Chair: The next presentation will be made by the Federation of Women Teachers' Associations of Ontario. Would you come forward, please, and identify yourselves and proceed with the presentation. Mr McGuinty, would you assume the chair, please.

The Acting Chair (Mr Dalton McGuinty): We're ready when you are.

Ms Beverley Gardner: Thank you. My name's Bev Gardner. I am second vice-president with the federation of women teachers. I am here with colleagues to make our presentation. On my left is Joan Wescott, our executive director; and on her left, Margaret Dempsey, the president; and on my right, Barbara Sargent, vice-president.

First of all, thank you for the opportunity to present comment on behalf of the 42,000 women who teach in the public elementary schools in Ontario. There are a number of areas in the bill that are of particular interest to us as women and as teachers who have primary responsibility for the education of young children.

We regret that our submission isn't in its usual format—we prepared this on rather short notice—but are pleased to be here. There are areas that we have commented on previously on a number of occasions, so they're not unfamiliar areas to us.

I'm going to ask Joan Westcott to take us through the technical parts of the paper, and then we'd be happy to respond to questions.

Ms Joan Westcott: Thanks, Bev. I believe you have copies of our document at this point, so I just want to highlight some of the points we're making.

We can't help but start with junior kindergarten as our first priority in this paper, since we have long

waited for the government to implement the junior kindergartens in all the school boards across the province. We're pleased to see it in this piece of legislation and we urge the government to get on with the implementation of junior kindergartens in all school boards by September 1994.

We take pride in the history that we have as an organization in advocacy for early childhood education, and we believe the implementation of junior kindergarten supports building a firm foundation for children as they proceed through their education.

We have two particular documents that speak to the importance of early childhood education; they have been presented to the government over the years. I have brought a couple of copies of those documents to leave with the committee. One is our submission to the select committee on education made some years ago, in February 1990, and more recently, our response to The Early Years consultation paper for the Ministry of Education made in February 1992. I'll leave those copies with the committee just to highlight the importance of junior kindergarten, and we urge that this part of the bill be supported wholeheartedly.

1630

We do, however, have some questions to ask about the implementation, and we realize that these questions relate more specifically to the regulations that will be developed to go along with this one section of the bill.

You'll note on page 2 of our document that our concerns relate to the delay in the implementation which will be allowed for some school boards. We ask that there be immediate clarification on the matter of the possibility of delay. We want to know what the criteria are to allow phase-in or delayed implementation of the junior kindergarten requirement. We want to know when the regulation will be available. We would like to have input into that regulation. We want to be assured that the phase-in circumstances would be clear and that they would be allowed only under unusual circumstances. Of course, it's very important that boards learn the conditions under which they'll be allowed to phase in as well.

Equity of access to junior kindergarten programs for children in Ontario is an issue for us, and we believe that the implementation of junior kindergarten in every board is important for the children of this province. We have, in our documents, addressed the issue of who will teach the junior kindergarten classes. We believe the basic qualification for the teachers in junior kindergarten must remain an Ontario teacher's certificate, strengthened by training in early childhood education and in child development.

We certainly are very supportive of the initiatives that we know are in place among colleges and universities of this province to offer specific teacher pre-service and post-service courses for early childhood education certification and specialization. We applaud the initiat-

ives to coordinate the programs for graduates of early childhood education programs in colleges in order that they can access additional training at the faculties of education in the universities.

Of course, the practising teachers, those who are currently teaching in kindergarten programs and in primary programs, are also asking for greater access to more early childhood education programs to assist them in carrying out the programs in junior kindergarten and kindergarten.

As I mentioned, as you'll see at the bottom of page 3, if you would like to explore our position further, we offer copies of our two documents for you.

Bill 4 mentions a number of changes related to special education. Like many other organizations, our organization and our members individually provided extensive responses to the consultation paper on the integration of exceptional students which was put out by the Ministry of Education. Our regret about what is proposed in Bill 4 at this time is how it may present a disjointed approach to changes in special education. We have looked forward to being involved in the kind of discussion and consultation which we believe must be in place for special education changes, and we hope that the changes proposed in Bill 4 will not provide greater confusion.

We have always agreed that the labelling of students can be detrimental to the progress of a child's development, and so we support the deletion of the references to "trainable retarded children" and to "trainable retarded pupils." We question whether all of the further implications with the removing of these labels have been appropriately considered.

We want to be assured that the needs of these exceptional students will continue to be able to be recognized through the IPRC process, as well as through the use of educational assistance within the school system, and through the provision of other resources that are required to assist these students with their program.

We want to highlight just one aspect of the section of the bill that relates to the suspension of a pupil, and that is, picking up specifically on the inclusion of the section to confirm that an appeal under subsection (2) would not stay the suspension. We believe it's very important for this section to be included in legislation to provide support for the principal in carrying out responsibilities related to suspension.

Next, to speak to the section of the bill that relates to notification of conviction: We are pleased to see this section of the bill included. We initiated this discussion with the Ministry of Education many months ago to urge that this proposal go forward. We believe that if a teacher is convicted of an offence involving sexual conduct and minors, or of any other offence that may put pupils at risk, that individual should not be working

with students on a regular basis. We do believe that appropriate measures must be considered, including loss of certificate, for teachers who may be a danger to students. It goes without saying that as we go through the process of the investigation of these cases we strongly support thorough investigation. We strongly support that there be protection of privacy of the individuals during the investigation. But if someone is found guilty of such an offence, we believe that there must be consideration for action.

The last of the items that we are considering at this time is in regard to the transfer of the sick leave credit. We certainly wholeheartedly endorse the amendment which would remove subsections 180(8) and 180(9) from the Education Act. These sections currently, as you know, prohibit the transfer of sick leave credits from one school board to another or from a municipality or a local school board, or a board to a school board if there has been any intervening employment with another employer. We see that this removal will remove one form of structural discrimination faced by women and so we really support that you take action on this, particularly as it concerns teachers. While some changes are occurring, it's true, in the way that family situations are handled, it's still true that women tend to follow their husbands to a new job. They may not be able to find teaching positions in the new municipality. They may need to find other employment until the teaching position becomes available, and so we do urge you to support section 30.

As Bev mentioned when we began the presentation, we have highlighted only certain sections of Bill 4. We would be pleased to provide further information on the sections we've highlighted or to speak to some of the other sections in further detail if you wish, but at this point on this short time line these are the only ones we've chosen to highlight. We'd be pleased to answer any questions.

The Acting Chair: Thank you very much. We're going to have lots of time, in fact, for questions. I'm going to start with Mr Hope.

Mr Randy R. Hope (Chatham-Kent): You are a provincial organization. Do all your associations agree with your philosophy on children about JK?

Ms Westcott: Yes, they do.

Mr Hope: I have to ask a serious question because there was a presentation made earlier today from the Wellington County Board of Education, and it says the Wellington County Women Teachers' Association, which I believe is your association, is saying a delay of JK at this time. I'm wondering, you made a comment earlier stating that under special circumstances there can be a delay. I'm just curious about some of those concerns that you might see which would allow a delay of junior kindergarten.

Ms Westcott: I believe that to the best of our knowledge there is no question that our members support the philosophical basis for junior kindergarten. There is no question that the literature is clear on the benefits of early childhood education. We understand that in some of the school boards where this is not yet implemented there has been indication of barriers that would prohibit full implementation. What we would like ensured is that when school boards are asking for time in terms of implementation that there are real barriers and that some phase-in where it is feasible should begin in September 1994, and that may well be the case in the Wellington school board.

Mr Hope: What would you see as a real obstacle?

Ms Westcott: Clearly, for young children in a specialized program, facilities and resources are necessary. It may not be possible in some systems to have all of those physical resources available in September 1994 if there has been no pre-planning, as is the case in a very few school boards in the province who have been waiting out.

Mr Hope: Do I still have time?

The Acting Chair: Yes.

1640

Mr Hope: I'll keep going then. I was interested in reading the news articles that are provided to us and I noticed your stance is publicly taken in the newspaper that you are in favour of junior kindergarten, but I was also reading in here and I mean to seriously ask you, from the teaching profession: Do you think that an age, maybe 3 years—that a 3-year-old, 4-year-old and 8 months or whatever the statistic is—is ready to learn, because I've read in the articles where some people are calling it a babysitting service. The association believes that some children at that age are ready to learn. I'd just like your viewpoints on that.

Ms Gardner: I'm a parent as well as a teacher. I know that my children were learning from the minute they were born. I think the definition of learning that may be implicit in your question is something other than what would be seen as formalized education. I think we need to be clear about what we're talking about when we talk about learning.

Learning is a lifelong process that begins from the first breath and continues on. What we do know from the literature is that children, particularly children who are in any way deprived in terms of the kinds of normal experiences that children have to get them ready for what has been formalized schooling, have greater chances of success if the public systems intervene earlier and give them a head start.

Mr Hope: My final question would be just with those jurisdictions which haven't complied with providing junior kindergarten. Knowing your association probably represents some of the teachers in that area,

why would it be that parents haven't come forward with the opportunity to put JK in the school boards—fear, lack of knowledge? What do you believe some of the beliefs would be in those communities which have not been affected by junior kindergarten?

Ms Gardner: Is the question why school boards haven't implemented them?

Mr Hope: Yes.

Ms Gardner: Those decisions are in the hands of the trustees. Those jurisdictions, for a variety of reasons, have determined not to extend their early childhood education programs to include JK.

Ms Margaret Dempsey: I would like to elaborate further to what Bev has said. I have taught kindergarten and I certainly recognize the tremendous learning for children that takes place at age 4 and age 5. Children come to us in many ways like sponges eager to soak up every type of learning experience and play activity which sets the foundation for future learning in the primary, junior and intermediate divisions and right on through.

Part of the experience I have encountered as a teacher is explaining the education process itself, as to how learning takes place and also to how a student age 4 and age 5 can really grapple with education. Learning is fun. The best way to experience it is to come into a kindergarten and a junior kindergarten class. It's absolutely a wonderful place to be and it's the most enriching experience for a teacher.

Part of the difficulty I think is getting that message across to people who haven't been in junior kindergarten classes to experience it first hand. Believe you me, any trustee in my experience who has come into a junior kindergarten class and participated sees the joy in the learning that goes on and leaves that room a strong advocate for junior kindergarten.

Ms Barbara Sargent: If I could just give Mr Hope a concrete example: The board that I represent, and also Mr Hope represents, was reluctant to implement JK. They have implemented it over a five-year period. They are on the last of that implementation plan. Parents are now clamouring to get their children into these programs because they do see the value. In the last couple of years where the program has not been in their particular home school, they have tried their best to get them enrolled in another school. The parents are realizing and seeing first hand the value of those programs.

Mr Hope: Do I still have more time?

The Acting Chair: I'm going to turn it over to Ms Witmer right now, Mr Hope.

Mrs Witmer: Thank you very much, Joan. It's a real pleasure to see you and to see your colleagues. I know that when the federation of women teachers makes a presentation, it's always thoroughly researched. Again, you've done an outstanding job. I didn't realize

that you had such a short time line under which you operated this time.

I want to concentrate on the proposed amendments related to special education. I certainly am extremely unhappy that the government has decided to lump its special education amendments in with the other items in this omnibus bill. I think that consultation with interest groups over this issue in the past has indicated that there's certainly a wide variety of views on this matter, and unfortunately now I feel that this issue of special education is no longer going to get the attention it deserves. I have to tell you, that's probably the part within this omnibus bill that I'm personally the most concerned about.

I notice also that you indicate as well that you have some concerns about the disjointed approach to changes in education, and you're concerned that it's going to lead to greater confusion and concern about the directions for programming for exceptional students. You go on to question whether all of the implications of such a move have been fully considered, and then you go on to say, "We must ensure that the resources will not be lost through a change such as that proposed."

Could you please expand? What are the implications that need to be considered and what are the resources that are going to be needed to respond to the needs of the students who need the special education programs and services? I can tell you I'm very concerned that there isn't special attention being given to this particular area.

Ms Westcott: If I might make a few comments—and I don't know that I'll explore all of them in the points that I make—it's a much bigger issue than just the labelling, and I think the bill just doesn't present it as labelling, but the labelling is the initial issue.

But in taking away the label for the students, and while we think that's a good idea, it does take away the specialized programs for that particular grouping of exceptional students—

Mrs Witmer: That's right.

Ms Westcott: —and we fear that in taking away all of that specially identified programming, in grouping these students with other exceptionalities these students may lose out. So that's why we're trying to identify the need, to consider whether or not the groupings of students would be appropriate if in fact they're not all the same groupings, the kinds of resources—it may require greater personnel resources than before—and we want to ensure that the needs are still identified as ones that require specialized services. We are always concerned about the grouping of exceptionalities. In some cases it's quite appropriate; in others it's not, and we fear that these students may be inappropriately grouped and that the kind of educational opportunity that's provided to them may not be as good as it is now.

While we don't disagree there need to be some changes, we fear that all of the ramifications aren't being considered. We mentioned particularly the educational assistance and the IPRC, because we think in the decisions about program, it's key, but the personnel resources are particularly key. So it's really just starting to get into it.

Ms Dempsey: And if I may add, Elizabeth, in the year of cutback and restraint, the most vulnerable students are those that are often disadvantaged, and there have been situations in different jurisdictions where it is the educational assistants and the people who provide support to special education students who are laid off. That is a reality.

Mrs Witmer: I guess that's what concerns me, Margaret. Having been a teacher myself and then a trustee on a school board, it's an area that I know, that sometimes the first cutbacks are made in this area.

I guess if you take a look at some of the societal problems that we have today, we seem to have more students than ever that do have some special needs, and if we're not prepared to respond to those needs, we're going to suffer some of the consequences later in life.

So that's why I'm particularly concerned that we're really not taking a closer examination and really looking at this whole issue of special education. I think it's just being swept under the rug. I'm not comfortable with omnibus bills to begin with, because I think things can slip through and sometimes we're not aware of all of the consequences until it's far too late.

1650

So I would encourage you to continue to let the minister know of your concerns. Hopefully, we can continue to meet the needs of these students. We've certainly heard from parents that they're very concerned that their young people are not going to continue to be provided with the programs and services, simply because the dollars aren't available to school boards.

Ms Gardner: I think there are two issues here that are being confused: The issue of labelling is a very high-profile kind of issue and would gain a lot of sympathy and respect from the general public as well as educators, particularly this label, which is quite offensive.

Mrs Witmer: That's right.

Ms Gardner: However, what it does is remove, in some ways, the security that this particular population had to ensure that their needs would be met.

Mrs Witmer: Exactly.

Ms Gardner: There are many examples in many jurisdictions of very fine integration models where on the actual implementation level the labels have been set aside to provide good service, but it is the government's responsibility to provide us with the framework that will ensure that we can request and access the resources that

this population needs, and they certainly need specialized resources.

Mrs Witmer: Yes. Thank you very much. I appreciated your presentation.

The Acting Chair: The parliamentary assistant has asked to raise a point of clarification.

Mr Tony Martin (Sault Ste Marie): It is not the intention of the ministry to take any of the resources away from the students who are now labelled trainable retarded and are to be labelled developmentally disabled. The repeal of the provision in respect of trainable retarded pupils from the Education Act will mean that the same procedures for the identification and placement of exceptional students will apply to all exceptional pupils without distinction and will remove from the act any perceived barriers to the integration of exceptional pupils.

It does not mean that these pupils will no longer be recognized as exceptional pupils who need appropriate special programs. I think that's an important point to make, and we come to this from some tremendous lobbying and information put to us by those people who directly advocate on behalf of these folks and they see this as appropriate.

Ms Westcott: Could I just make a point on that, because that does concern us. While we support the integration of exceptional students, we fear that what might happen is that when there are not resources, these students will be integrated without additional resources and the classroom teacher will be unable to meet the needs of those students appropriately in the integration process. So it is a serious concern that needs to be considered by the ministry. We believe that it's not just good enough to say they'll be considered for integration. They should only be considered for integration if all of the other support systems are in place, and we fear they won't be.

Mr Martin: It is certainly not the intention of this piece of legislation to do what you're suggesting.

Ms Gardner: We're happy to hear that.

The Acting Chair: I want to thank you on behalf of the committee for taking the time out of your busy schedules and sharing some of your expertise with us in a manner which, I am sure you will agree, is of vital concern to all of us. Thank you very much.

KATHLEEN HASWELL
MONIQUE TRELEAVEN
CHARLENE DEROSIER

The Acting Chair: Our next presenter, Mrs Kathleen Haswell. Mrs Haswell, I note for the purposes of the record that you have brought along two other people with you and ask you to identify them for us, please.

Mrs Kathleen Haswell: Yes. Thank you, Mr Chairman. My name is Kathy Haswell, and this is Mrs

Derosier and this is—

Mrs Monique Treleaven: Mrs Treleaven.

The Acting Chair: Thank you. Please begin.

Mrs Haswell: There are six children who are presently funded out of our section 35, the hard-to-serve clause. One child is presently in university and is not being funded at the moment. Two children have emotional or psychiatric problems and were referred by their respective boards—not by the parents; by their boards. There are three parents who are left. Last week you heard from Mrs Mogford, who was not on your agenda, and she took the place of another parent whose car had broken down on that day. Beside me are the two other parents.

Everybody's called for an appointment and I'm very concerned that the parents of the children who were actually declared hard to serve have not gotten on the agenda and not been allowed to present. So with your permission, Mr Chairman, I would like to give up my time slot so that you can hear from two parents who have had their children declared hard to serve.

Before you is a package. The yellow package is from the parents of hard-to-serve children, and we're responding to the advisory committee's recommendations. The blue information is my presentation that I was going to make but I'm not. Then there are two letters from two other parents.

With that, Mr Chairman, if you don't mind, I'd like to turn it over to Mrs Treleaven.

The Acting Chair: Just to note, Mrs Haswell, the committee has heard, I believe, from at least three individual parents of hard-to-serve children. Of course, we've heard from the organization of parents of hard-to-serve children, but we are very pleased to hear from these two as well.

Mrs Haswell: But these parents have had their children identified hard-to-serve.

The Acting Chair: All right, thank you.

Mrs Treleaven: I'm Mrs Treleaven. I am the mother of Kevin Treleaven, whose date of birth is August 31, 1980. My husband, Russell Treleaven, and I reside in the town of Orangeville in the county of Dufferin. We have two children: Kevin, who's 12, and his younger brother, Joseph, who's 6.

Kevin is learning-disabled. His weaknesses appear to be in visual-motor integration skills, non-verbal concept formation and analogical thinking. The most recent psychological report prepared by Dr Griff Morgan, who's a registered psychologist, states that Kevin's problems in information processing, reasoning and verbal ability account for much of his learning disability, and he is of average intelligence.

Kevin was identified as an exceptional student with the board in grade 1. That was in 1986. In 1989, when

we moved to Orangeville, he was placed in what they called a primary-junior composite class in Orangeville. In the fall of 1990, my husband and I noticed Kevin was having greater difficulties in school. As Kevin suffers from migraines, which seem to be related to stress—and at this time the migraines were becoming more frequent and I was having to pull him out of school three times a week because he was vomiting so much they didn't really want him there, so they thought he'd be better at home. They really don't facilitate that type of thing.

So I had to pull him out of school because of this nausea, and I requested another IPRC to review his placement. On February 11, 1991, this IPRC was held. My husband and I were not satisfied with the decision of the IPRC, because it changed very little in Kevin's placement. We were told that Kevin had progressed socially—they told us, "He's coming along socially"—but we could see that he was not progressing academically. We requested an appeal of the decision. The appeal was heard April 12, 1991. The decision of the appeal committee was that the placement recommendation by the IPRC was appropriate for Kevin.

I believe that the appeal process was stacked against us. The psychologist for the board implied that my son would never be able to go on to get a post-secondary education and would always be behind. It is not so surprising that many children do not succeed when educators have so little expectation of them.

During the spring of 1991, Kevin's difficulties with the placement recommended by the board were becoming more severe. My husband and I believed that he was losing ground academically and emotionally. I requested a hard-to-serve hearing for Kevin under the Education Act. At this point I felt I had no alternative but to take things further with the board—my son was so emotionally upset and humiliated by his experiences in the classroom. The committee made a written report of its findings and recommendations to the board. It was their conclusion that Kevin is a pupil who's able to profit from instruction and therefore they decided he was not hard to serve.

On November 18, 1991, the board considered the reports of the committee. The board also heard submissions from myself and my counsel, meaning my lawyer, and the board's lawyer. Following deliberations, the board determined that Kevin was a hard-to-serve pupil—so now he was declared hard to serve—within the meaning of section 34 of the Education Act. This decision was an indication that I was finally being heard and that my nightmare was soon going to be over.

1700

On November 20, 1991, Kevin was assessed by Dr Griff Morgan. This report assisted us in finding an appropriate placement for Kevin. We investigated a couple of placements before deciding that Sheila

Morrison School was the most appropriate placement for my son.

In December 1991 I spoke with Sheila Roy of the Ministry of Education. She advised me that the decision of the ministry to find a placement for Kevin would take a long time. She told me not to remove Kevin from the board's placement despite the fact that the board had determined that my son was hard to serve.

In March 1992 the Ministry of Education advised us that the ministry's decision not to fund Kevin's placement remained unchanged. The Ministry of Education was refusing to fund Kevin's placement at the Sheila Morrison School despite its obligation to do so under the Education Act.

We placed Kevin at the Sheila Morrison School on January 27. We obtained this funding only after we started an application in the Divisional Court to force the Ministry of Education to honour its obligation under the Education Act. At this time we are still in the middle of litigation over the ministry's obligation to pay my son's schooling.

Kevin has been at Sheila Morrison School for one year. His teacher compares him to working with clay. "One only has to mould him" she says. She also told me that he is her best student. He needs to be pushed, as he has become used to doing nothing—nothing has been expected of him—and he really didn't have to work very hard in the public school system.

Sheila Morrison has brought Kevin up four grade levels in one year. He had not progressed past grade 1 in the eight years that he was in the public school system, and if Bill 4 comes into force, the funding for Kevin's successful school placement will be cut off. We don't know where we'll place him. It would appear that Kevin would only have one more year at Sheila Morrison after the end of June if the bill goes through. We don't believe he's ready to be placed back in a system that can't meet his needs.

Mrs Haswell: Mr Eddy, Mrs Derosier would like to have a few words, if that's okay.

Mrs Charlene Derosier: Ladies and gentlemen, I'm here to ask that the hard-to-serve section not be removed without something else being put in its place. I agree that the hard-to-serve section is not as clear and concise as it should be, but it's all we have at the moment.

It was not until my son entered grade 9 that I found out that he had a condition known as attention deficit hyperactive disorder. This came as a relief to me, as I'd been trying to find out for years why my son was acting out and not producing academically. I had been led to believe that all of my son's problems were due to the family, yet we have raised five children without any major problems.

My son was my first-born, so I had nothing to

compare him to. Looking back now, now that I have researched my son's condition and my son's OSR file, his Ontario student record, I can see clearly that the school was fully aware of my son's problems but did not inform me. My husband and my family and I spent a good 10 years in family counselling without ADHD ever being mentioned to us. How can this be possible? If I'd not found the learning disabilities association, I would still be in the dark as to my son's behavioural problems and my son's academic problems. I was and still am very angry that this could happen to my child and my family.

My son first showed signs of hyperactivity at the age of 18 months, but it was not until he was approximately four years of age that I took him to see a specialist. This doctor did not agree with me that my son was hyperactive but agreed to try him on Ritalin anyway. At first I thought it was a miracle drug, but later my son became so lethargic that I decided to handle him the way he was even if he was going to drive me crazy.

I wish I had known more about ADHD and that there were many more children with the same problem, that my child was not alone and that I was not alone and, even more importantly, that I was not to blame for this neurological condition. For as long as I can remember, I have lived with the shame and humiliation one feels when they blame themselves.

The teachers called almost daily to complain about my child's homework or behaviour. I was a cowardly parent who agreed to everything that the teachers wanted me to do or to try. His grade 2 teacher told me that she thought about how she was going to handle my son the whole summer before she got him. Well, she handled him all right. She placed his desk at the back of the classroom facing a wall and ignored him, and if he still disrupted her class, she would put him out in the hall or at the principal's office.

When my son entered grade 3, we had moved to Georgetown, where we were involved in many IPRCs, counselling sessions and emotional assessments. The results all pointed to emotional problems due to poor parenting skills. Even though I do in part agree with this, I feel that had we known what we were dealing with, and also had we been taught how to deal with an ADHD child, my son's behaviour would have improved.

Unexpectedly, we had another move, to Orangeville, so once again my son was into a new school, new teachers, more parent-teacher interviews and more counselling. My son was identified as exceptional. Unfortunately, we knew nothing about this terminology. When we asked, we were told that he had behavioural problems and that he should be sent to a special school to help him deal with his problems. Once again, we were intimidated by the so-called experts and we agreed.

Kennedy Hill School was paid for by the Catholic

school board. He was taxied to Brampton, which is three quarters of an hour's drive there and back every day, compliments once again of the Catholic school board. For the first year, my son got practically one-on-one teaching by a wonderful, competent teacher and things were improving academically as well as behaviourally.

When Kinark became Peel Children's Centre, they bought out Charlestown, which was in Caledon and closer to Orangeville. They sent my son to this school, and it appeared to offer very little academically. I was also upset that a lot of the children were developmentally delayed. My son is not. My son is of above-average intelligence, and this seems to be why his learning disability was not identified.

This school did not last long. They were selling the property and my son was once again transferred back to Kennedy Hill. The new teacher who took over for my son did not see anything positive in him, and his behaviour was really out of control. He was now swearing, climbing on top of the school roof and his running-away pattern had begun.

Talking to the teachers, they led us to believe that my son had become too institutionalized and maybe he needed to become integrated again, as he had all the treatment they could possibly supply. It was not until I asked for all the copies of my son's assessments that I found out that in their report they had said that we took my son out of Kennedy Hill against their advice. It also mentioned in this report that when my son's school work was not going smoothly for him, he would threaten suicide.

In grades 7 and 8, my son was given a child care worker to help him deal with any problems now that he was once again integrated into the regular school system. My son did not pass grade 7; he was pushed on for social reasons. He was not allowed to go on his school trip. He was not allowed to go to his grade 8 graduation. If his child care worker was off, I was asked to keep my son home. At one point, my son was home for approximately two weeks due to his child care worker's absence. We had an IPRC meeting scheduled to see about moving my son into grade 9. My son also had frequent brushes with the law. Maybe it's better to be bad than stupid.

In grade 9 my son is earning suspensions and only one credit during the first term. Do you think we're getting close enough to a dropout yet? I took my son to Weston Jacob Centre, and for the first time someone tells me that he has ADHD, that there was a name for it. The psychologist explained my son's condition in terminology that we could understand and really stressed to us that we were not to blame. After so many years of blame being heaped upon us and having every inch of our personal lives picked apart, now we were having someone tell us that it was not our fault. This

was very hard to handle, and all I could do was cry. He also told us that learning disabilities could be associated with ADHD.

On a visit to my paediatrician for one of my other children, I saw a flyer on the wall talking about children with ADHD. The doctor then referred me to a Dr Murray at Sick Kids Hospital. This was when my son was put on medication, now for the second time. Dr Murray told me that the lethargic reaction that my son had when he was younger proved to him that he should have been on the drug. A person without ADHD would have had the opposite reaction.

By this time, my son was not happy with anybody and did not believe that anything was going to help him. He was running away, stealing cars and hanging around with a rough crowd. I pulled him off of buses while he was trying to run away, and at one point I had no choice but to let him cool off in a detention centre. He was happy to come home after a week in lockup, and now we were able to start him on medication. I was also able to get my son into sessions with a psychiatrist.

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About this time, a friend of mine mentioned the learning disabilities association to me. I was directed to Dr Griff Morgan for testing. This time the testing was educational. We were told that my son had a high IQ but that he was indeed learning-disabled and that he should be identified under communication instead of behavioural.

Now that my son was on medication and settling down incredibly at home, I could show him videos related to ADHD and he was meeting other teens who also had ADD or ADHD. My son was really taking an interest in this and he was no longer tearing his room apart in frustration. His temper tantrums were also decreasing.

I spent the next couple of years trying to get my son the special help he needed, but even though the school tried its best to help make things easier, my son was still not coping. The peer pressure was too great at times and my son was easily used as a scapegoat.

I put an application in at Trillium and then my son and I went to see it. My son's attitude was not great. I could not blame him. I was not impressed with the fact that the kids only went there for two years. A learning disability never goes away. I also asked what the success rate was and they told me 50-50. I also inquired as to what level most of the kids there were working on and they told me that they were either in basic or general courses. They also told me that most of the kids were only taking one or two courses per semester. This was definitely not appropriate for my boy, and even he realized it. This school costs approximately \$58,000 per student per year.

My son has attended a private school now for a little

over a year. There are only 45 students who attend this school. The facilities look much like a boot camp or trailer park, with very little luxury. They are only there to learn. They have approximately three students to one teacher. They must earn points to go home each weekend. This is done by chores completed. Manners are taught, with proper respect going to the teachers. Social skills for these children are as important as their academic training.

Another important feature of the school is the physical activities that everyone is expected to participate in. If a child acts out, he or she may have to run laps. If work is not up to date or inappropriate, they may have homework makeup.

In the first four months that my son attended this school, he earned seven and a half credits, compared to three in two years of the regular high school setting, and of those three one was phys ed and one was religion. They weren't the hard ones.

The Acting Chair: Mrs Derosier, sorry for interrupting, but we just have about a minute left and I don't want to delay the other presenters. We have a vote in the House as well later this afternoon, so if you could just summarize the balance in your own words in 30 seconds or so.

Mrs Derosier: Okay. What was happening in the regular high school setting is that he was being suspended; he was suspended 30 out of 50 days. In this school he's having success and he's being treated normally, and he's for the first time, actually in his brain, thinking he's normal instead of being thought of as stupid and just acting out and being bad.

If the school system hasn't been able to do this for all these years, and he's finally getting some success, how can anybody take that away from him? I'm just extremely upset that this would be taken away. I think there are many more children out there with these problems and it's about time that we got with it on this.

The Acting Chair: Thank you very much for your very eloquent presentation.

LEARNING DISABILITIES ASSOCIATION OF ONTARIO

The Acting Chair: Our next presenter is the Learning Disabilities Association of Ontario. Why don't you identify yourselves first, please.

Ms Eva Nichols: Good afternoon. My name is Eva Nichols. I'm the executive director of the Learning Disabilities Association of Ontario. On my left is Tanya Lewis, who is the assistant executive director, and next to her is Joan Schiff, who is coordinator of chapter liaison and deals with the association's 51 chapters throughout the province.

We very much appreciate the fact that you were able to fit us into a cancellation or a vacancy or whatever this turned out to be.

The Acting Chair: Before we proceed any further, do you have anything in writing to hand out or are you just going to proceed?

Ms Nichols: Since I only have known for a very few hours that we were coming in front of you in person, we don't, but we will have some follow-up material.

The Acting Chair: That's fine. It's understandable.

Ms Nichols: But we will have some follow-up material. I have to say that we are disappointed that so many members of the committee are not here, because I think that the issues that are before you are extremely important.

We basically would like to support some sections of Bill 4, and we would like to speak to some others that we do not. First of all, we do want to express the association's stance, which has been in place for many years, that we do support all removal of any reference to students who are identified as "trainable retarded." We appreciated Mr Martin's comments that parents of such children have been looking for equity for a very long time, and we support that. But we would hope that when you are looking at equity issues for that particular population, you will also consider the equity needs of other populations that are different but have just as many needs.

"Equity" means many different things to different people. I think it's important that when you think about this—and I'm sure you all know this, but it bears repeating—equity is not equality. I think that when we set out to try and deliver equality, ie, the same thing to everybody, that's when we run into difficulties.

I don't believe there have been any groups in front of you or in front of the Legislature or making delegations to any member of the provincial Parliament looking to eliminate certain things that this government is looking to eliminate from the Education Act. Obviously, we are very concerned about the plan to eliminate the hard-to-serve section, section 35, notwithstanding the fact that we recognize that there are problems with it as it is written. But when you have problems with something, you don't deal with it by just taking it out and then hoping that everybody will trust that somehow it will come out right.

The fact of the matter is that for those few students who have been declared hard to serve and for those others whose parents are still awaiting the convening of a hard-to-serve committee, this is an absolute lost lifeline, and in many cases I think that the situation is quite desperate.

We also would like to remind you that, of course, under the Education Act the minister has certain duties to ensure that there are such things as appropriate identification of learning strengths and needs, early identification programs and appropriate special education programs and services. It seems to us as an

organization—and we have said this on many occasions, so it's not new—that if in fact the accountability and the equity processes surrounding this were appropriately in place, then the hard-to-serve provision might indeed have disappeared through natural attrition.

It is ironic to note that we have a letter from the previous Minister of Education, who talks about the fact that section 34, as it then was, was originally enacted in 1980 because it was not clear whether pupils with severe learning disabilities could be served through the school system at that time. Since the passage of Bill 82 in 1980, only one pupil has been determined by a school board to be hard to serve. It goes on to say that the minister believes that school boards can do better. This is dated October 30, 1991.

Then that same minister writes that in fact the ministry is now convinced that almost all pupils have their needs met. I would put it to you that "almost all" simply is not good enough, and if any one of us decided that we would pay almost all of our taxes, you quite rightly would not view that very kindly, and I guess we don't view very kindly the comment that almost all is acceptable. Almost all is not acceptable because for those who are not in that "all," in fact it's 100% of their lives. People don't come in neat little packages, and we can't just say, "Well, okay, we won't meet 5% of everybody's needs." That's not how it works.

Since then, there have been comments that the reason why we need to get rid of the hard to serve is because there has been a proliferation of requests. It seems to me that if the original reason is because there has only been one and then it's because we have met almost all needs and now because there is a proliferation, then I think that something is very faulty with the logic.

We would like to recommend to you as a committee to recommend to the Legislature the following: first and foremost, that we have a good Education Act. Yes, it could be better, but it's a very good act, and the regulations are pretty good as well. If in fact they were enforced in such a way that there was proper accountability, much of the concern, bother and upset simply would not occur because children would be identified appropriately, served appropriately.

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Yes, we know how to do it with almost all students, but when we don't do it, when we are eliminating, chipping away, cutting away and generally just getting rid of the kind of services that exceptional pupils need, which is happening day by day in our school boards, inevitably the kind of delegations that you see at this committee will keep on happening and you will keep on getting letters from people who are, frankly, upset about what is happening.

We would like to recommend that you very seriously consider the rewriting of section 35, as has been recommended to you by some other groups, in particular the

Ministry of Education advisory council. That clause-by-clause revision may not be the ideal, but it would certainly give you a direction in terms of how to meet the needs of exceptional pupils without necessarily bankrupting the province, which is almost the hint that if we carry on funding private schools, what will this mean in terms of our fiscal responsibility?

Finally, I would like to urge you to look at Bill 15, which is a private member's bill tabled by Mr Bob Callahan on May 17, 1993. Certainly that would represent a very good way of ensuring that all exceptional students have their needs met.

The bottom line really is that we are talking here about very vulnerable children and their families, who have been through a tremendous amount. They really deserve our support, our consideration, and ultimately that we don't simply undermine and make the one safety net that they still have disappear.

The Acting Chair: Thank you for your presentation. Questions, comments?

I wouldn't interpret that as lack of interest but rather that perhaps we've all been overcome by the thoughts that you shared with us. I appreciate your attendance here before us today and I look forward to hopefully seeing you again in the future.

Ms Nichols: Thank you.

HEATHER AND JAMES HUNTER

The Acting Chair: Our next presenters, Heather and James Hunter.

Mrs Heather Hunter: Thank you for allowing us to speak before the committee, Mr Chairman. My name is Heather Hunter and this is my husband, Jim. I'll take a deep breath and start.

Our 15-year-old son has a verbal IQ of 140: a gifted child who reads voraciously at a university level, who has studied military history in depth, who is currently teaching himself German, who is a thinker, a deep conceptualizer and is a joy to have around.

Our 15-year-old son has a performance IQ of 80. Numbers to him are totally foreign; writing an essay is impossible; maps are a puzzle; strings of instructions are an impenetrable maze, and organization is non-existent—an unusual learning profile, to say the least.

A 15-point difference between verbal and performance is considered significant and indicates that a child may be learning-disabled. A 30-point difference is very significant and the child is definitely learning-disabled. A 40-point difference is almost unheard of. Our son has a 60-point difference. Because of that, he has suffered trauma in the public school system.

It is extremely painful for us to recount the failures, the suspensions, the accusations, the lies; to speak of the months and years of severe stress; to recall the illnesses, hospitalizations and frequent visits to at least 20 doctors, specialists, psychologists, psychiatrists and consul-

tants, all initiated and paid for by us. Because we find it very hard to recount all the details of the past six years, we have included a chronology from 1986 to the present. We hope when you read this you will see why we had to speak out against this legislation.

Section 15 of Bill 4 will repeal section 35 of the Education Act, the piece of legislation that exists to provide educational services for hard-to-serve pupils.

Our experiences with the hard-to-serve process have not been pleasant. Despite the board's best efforts, our son was unable to attend school for any length of time. In 1990, our school board provided a teacher two hours a day in our home for six months. At the time, our son was and had been for several years extremely ill with stomach ulcers that would not heal. His environmental, chemical and food allergies were numerous and severe. He was unable to do any school work and had withdrawn from all outside activities.

The teacher supplied by the board worked wonders. Even though she did not understand the needs of a gifted, learning-disabled child, even though she was not qualified as a special education teacher, in her own words, she used common sense. Instead of treating our son as a behaviour problem, she read all the intellectual reports we supplied to her—the board had not done so—and proceeded to come up with her own program, uniquely tailored to our son's abilities and disabilities without the stress that arose in any other class. Once his constant vomiting was finally under control, her program created a sort of miracle. Our son was proud of his accomplishments. For the first time in four years he would discuss school work. He looked forward to his class of one and his self-esteem rose 300%. What a success story.

We were visited in June, 1990, by the supervisor of special services from our board, who agreed with us that that teacher and situation were extremely important to our son, and he suggested another year of the same was indicated. He asked us to inquire of the teacher if she would be available to do the same the following year. One problem arose: She would not be available. It seems that there had been a meeting the previous week where it had been decided to withdraw home tutoring from our son without an IPRC or parental input. The teacher was told not to worry about him.

In August, 1990, the board brought in a mediator who persuaded us to try behaviour class once again, as this was all the board had to offer. Our son lasted exactly 13 days in the placement. We would not put him at risk again. On September 24, 1990, we formally requested a hard-to-serve hearing. We had no other choices open to us.

It was a year and a half after the formal request was granted that the hearing was finally held. The intervening time was a nightmare for all our family. The school board, after several months of promising to get in touch

with us about our son's program, finally told us to teach him at home ourselves or send him back to the class that had proved disastrous. There was again no option open to us. We proceeded to investigate private schools, to the extent of borrowing money to try two of them. They were not successful either.

We had a lien for \$5,500 put on our house by legal aid to pay for our son's lawyer and we consulted with more professionals. Our son ended up in hospital again with uncontrollable vomiting. His psychiatrist said to keep him out of school for the rest of the year. His paediatrician told us, "You will have to choose between your son's health and his education."

Our hard-to-serve hearing was finally held on April 1, 1992. We presented the evidence, which included reports from three psychologists, a psychiatrist, two allergists and several medical specialists. The committee insisted that it needed additional information to make a decision. We offered to have our son tested at the world-famous Hospital for Sick Children in Toronto, the pre-eminent authority in children's illnesses and disabilities in Ontario. The committee rejected this offer.

Then we accepted the committee's recommended testing facility, the Huron-Perth Centre in Clinton. All documentation, both ours and the board's, was reviewed by Dr Reber and Mr Keillor, CEO:

"After reviewing the file, we view with some concern the notion of subjecting him to further assessments. However, if it is required, we recommend that it be done at a medical facility such as Toronto Hospital for Sick Children where all the specialized skills required are available in one location."

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What were we to do? At that point, given that up to that date the school board and indeed the hard-to-serve committee had not accepted the exhaustive reports already done, we decided that since our son's future was at stake, we would go to The Clinical Centre for the Study of Development and Learning at the University of North Carolina at Chapel Hill to see Dr Mel Levine, an internationally acknowledged expert in learning-disabled children. The committee was apprised of this decision and promptly decided they would not wait for the results of this visit. It was going to be several months before we could get an appointment.

They forwarded a synopsis to the school board on August 10, 1992. It was not a decision. They stated that he "is having difficulty with the educational process being offered to him." Here, they actually found him hard to serve. However, they went on to make a recommendation that he "not be declared hard to serve," a negative.

The committee completely failed in its responsibility. The act dictates that the committee must reach one of two determinations, in 35(3)(c): that he "can profit by

instruction offered by the board" or that he "is a hard-to-serve pupil." The committee did neither.

The school board accepted the synopsis as the report required by the committee. Our appeal to the board resulted in a letter on September 28, 1992, "that the board has considered the recommendations of the hard-to-serve committee and resolves that it has determined [he] is not hard to serve but requires a placement in a special-education program." The trustees ignored the fact that our son had not been served by any program of the board for the last two years and therefore was unable to profit from instruction offered by the board.

One would assume that the board, having taken this position, would put an appropriate program in place and that instruction would be undertaken post-haste. This has not occurred.

On October 27, 1992, in answer to an inquiry from us as to the status of our son's program, we received a letter telling us to transfer to another county. This was done without the required IPRC to make such a placement. There has been, to this date, no further communication to us from the school board.

As soon as we received this inappropriate answer, we turned to yet another private school in Canada and have instituted a type of correspondence course that is not ideal. We also applied for leave to appeal to Mr Don Werner, secretary of the English Language Special Education Tribunal. We were denied, after the Solicitor General's ministry had been queried and said that the act does not specify an appeal by parents and that no IPRC had been held to appeal from.

Our son was assessed by Dr Mel Levine at the clinical centre in North Carolina on December 22, 1992. The previous assessments were confirmed. As well, Dr Levine stated: "There are indications that he is becoming increasingly depressed and pessimistic," and, "Furthermore, [he] has developed a significant school phobia, one that might become progressively incapacitating to him."

Throughout his report, Dr Levine repeatedly used the words "when and if" when referring to Graeme's return to a regular school situation. He suggested that if our son ever gets back to a school, even on a part-time basis, he will need an anti-depressant medication. Dr Levine finally noted:

"It is important to point out that he is a boy who has many strengths and a really likable personality. Over the coming years, it will really be important to restore his self-confidence and enable him to recognize that he can become accomplished and gratified within the mainstream of society. He will need continuing support and understanding if he is to make this critical life adjustment."

It is clear that one-on-one home study with an appropriate teacher and a unique program is the only

possible solution for our son. This cannot be achieved any way except through hard-to-serve. Even then, it would be difficult to achieve, because the committee is not neutral. The doctor on our committee was a very well known psychiatrist who dealt primarily with the developmentally handicapped, not with the learning disabled. As well, an employee of the board was one of the three members. With the board being totally unsupportive, there is no chance of neutrality.

Please tell the Ministry of Education and the school boards of this province to implement hard-to-serve properly so that it can be of benefit to the pupils of this province. Tell them to find some way to improve section 35 so it is neutral and fair. The onus should be on the board to prove that the student is able to profit from instruction by the board. We hope that no student in Ontario has to again sit for two years while waiting for a school board to provide needed services, and we hope that it is still not too late for our son to reach his potential.

The Vice-Chair: Thank you for your presentation. Are there questions at this time?

Mrs Witmer: Thank you very much, Mr and Mrs Hunter, for your presentation. I know it was very difficult to share the chronology of events with us and I'm sure that many people in this room who haven't had a firsthand experience with problems that you face are probably quite surprised that you could be treated by a school board in the manner in which you have been treated. I guess I would say to you, as a former trustee, I'm shocked that you've been treated in this way.

It was two years that your son has been out of school?

Mrs Hunter: No, basically it's been almost four, actually.

Mrs Witmer: Four years.

Mrs Hunter: Grade 7 was when he was given the six months at home. Grade 8 it was waiting for the hard-to-serve. He was pushed on into grade 9. In grade 9 we tried two private schools very shortly, six months and four days. That was it. And then this year of course there's been nothing either. It's actually been four years.

Mrs Witmer: A total of four years then that he's been outside of the system.

Mrs Hunter: We have no report cards for our child after grade 6.

Mrs Witmer: Now, you indicated here that you received a letter on October 27, 1992, from the board telling you you should transfer to another county, and the board didn't even do the required IPRC. Have you received anything at all from the board since that time? Did they explain why they weren't going to do the IPRC?

Mrs Hunter: No. We have had no direct communication with our board since then. They have sent

communications to Mr Don Werner telling him that we are not entitled to an appeal. We signed release-of-information forms and sent them to the school board for them to send information to Mr Werner. They sent nothing.

There's one bright spot. We found out just three days ago that our lawyer has managed to arrange a meeting between ministry officials, the school board and ourselves on June 22. That is our last-ditch plan.

Mrs Witmer: Last resort. Will that meeting be then with the officials of the school board?

Mrs Hunter: Yes.

Mrs Witmer: And what would you hope to achieve through that meeting?

Mrs Hunter: I would hope they're going to offer home instruction. Dr Levine's report has stated that our child cannot be put into a very structured situation or he could conceivably hurt himself, and we will not put our child at risk. He may commit suicide. We can't.

We really believe that if the school board had seen its way to have given our child home instruction with the same teacher for another year, we would not be in this position now. I think he would have been back in school, maybe only half-time, maybe not full-time yet, but that teacher worked wonders. His self-esteem was way up there. He went out and got a paper route and he really got involved in everything again, and now he's down again. We have him in counselling to help deal with the anger. He has extreme anger against the schooling system. It doesn't help when his father's a teacher as well.

Mrs Witmer: No, it never does, does it, if you're too close to the situation. I certainly hope that Mr Martin has listened closely to the presentation that you've made today and I hope that the government will make every attempt possible in order that it does improve, as you've asked for, section 35 so it is neutral and it is fair. It's obvious that certainly it's been of absolutely no benefit to you or to your son. I think we need to realize in this province that you're not the only one. There are so many other individuals who, like yourself and your child, are not being able to access the education that you deserve. We certainly need to start doing things much differently.

I wish your son all the best. I have to tell you, my heart goes out to you and I hope that the meeting does work out well with the ministry and the board.

Mrs Hunter: Thank you.

1740

Mr Hope: A couple of things I'd like to do is go to the pages of chronological information you have, dealing with April 11, 1989, to May 9. He was suspended. Just out of curiosity, a suspension on what?

Mrs Hunter: Pardon?

Mr Hope: What was he suspended—it said he was suspended.

Mrs Hunter: Suspended: He wouldn't do any work, he was being disruptive, running from the school, that type of thing. His frustration levels were so high, he couldn't cope with anything in school.

Mr Jim Hunter: There was a suspension for soaping some windows at school. There was a suspension for maybe smoking, even though he says he wasn't. There was a suspension for refusing to write out 500 lines for the French teacher, when this boy can't even write one sentence. There was just this ongoing type of thing.

Mr Hope: I noticed even in the suspension for—suspended for five days, parents appealed and were refused. So you did—

Mrs Hunter: At that appeal—I didn't go to that appeal, I wish I had; my husband went—the principal of the school where my son was stood up and—

Mr Hope: With the other one, when the board referred you to another board, why wouldn't the board just purchase—I take it the board didn't have the service available to provide for you.

Mrs Hunter: Bruce county—all right, you explain it.

Mr Hunter: The other board that was suggested was Huron county. We live on a boundary line. We are in Bruce county, but we're in the catchment area of another high school. The other high school has no special education classes at all. It does have a challenging learning needs class for very low pupils, of which I was the teacher at one time. When we approached them to say Bruce county has said this, that we should come to them, they said that they had never heard of this before, that they had no programs for my son and that they could not serve him. We did investigate that maybe this might be a position, but it was of no use to us, of no benefit.

Mr Hope: As I'm trying to go through the whole information and sitting here trying to—if the board was aware of a problem that they had and they couldn't provide services and they knew of another board, I take it that's why they referred you to another board, why they wouldn't purchase the service from them and still have him in the home.

Mrs Hunter: I seriously believe that that letter was just to say, "We hope you'll get off our back." The school board has tried everything. The first—how many years—three, four years, they tried everything and nothing worked. It was very unfortunate that the one thing they did try that worked was taken away. They really had nothing left to try and when our son was declared not hard to serve, what's left? "Maybe he'll go away a little bit and let us get on with the things we can deal with."

In all honesty, to teach our son would be extremely difficult. He's very, very bright; he's also very, very frustrated. Teachers tend to treat him either as a gifted child, "Okay, you can do everything," or, "You're severely learning-disabled; you can do nothing." We need a teacher who can go down the middle of the road and go on both sides.

Mr Hope: Just to refresh my memory, because I'm looking at the whole paperwork here, you've got—

Mrs Hunter: There's so much, I know.

Mr Hope: I'm trying to go through it. Why did they remove the teacher from the in-home program?

Mrs Hunter: We do not know why. The one answer that we were given was because he missed a number of sessions with her and, yes, he did. When she started in January, he was still bringing up 20 to 30 times a day. He was still suffering severe headaches. He did miss a lot of sessions with that teacher; however, once the paediatrician got him on Losec, which is a very strong ulcer medication, he bounced right up. The headaches went, the vomiting stopped. That's why we started really getting results with this teacher and I really think that they felt now he's not sick, now he can go back into the regular class. It didn't work.

Mr Hope: I have no further questions because I'm still trying to go through the information, but I must say, the information you have here leaves something to be looked at very closely about the protocol and I guess the—it's amazing that some of the school board trustees—and I only leave those comments at face value, because I've been dealing with autistic children and having the same problem.

Mrs Hunter: I don't know what one is supposed to do. We just keep trying. We're going to keep fighting.

Mr Hunter: We've looked to the hard-to-serve process as being a last hope for us. This time we've hit a wall. We had nowhere to go, there was nothing to do, and we think that the hard-to-serve process is a benefit to all parents if dealt with properly. It gives them someplace to go, some method of appeal, of going beyond their own board. We just wish that the process would work the way we think it was intended to in the original legislation. It seems that it is not being dealt with that way. Even when we talked to Mr Cyze at the ministry, our regional director, he seemed a bit confused about the process. He even called it a judicial process where, in effect, it's an informal hearing. I think there's a lot of need to know at the ministry level so that they can inform the school boards how properly to carry out the hard to serve.

Mr Hope: I take it in one of your recommendations you say it should be arm's length from the board trustees.

Mrs Hunter: Most definitely. If you've got a principal of that school board on the committee, they're

not going to go against what the board wants. Our school board officials stood up at that hearing and said, "We can provide all the services that this boy needs." They were not questioned by the committee what the services would be, what the program would be, anything. They just said: "Oh, okay, you can do it. He is not hard to serve." We also need someone on those committees that the parent has a chance to pick to go on, from the learning disabilities association perhaps, or a specialist who we know really knows about learning-disabled children.

Mr McGuinty: Thank you very much, Mr and Mrs Hunter, for making what I feel is a very compelling case to the effect that instead of eliminating section 35 of the hard-to-serve provisions, rather what we should be doing is strengthening them in some ways to make them more effective. I hope the government members on this committee will pay very close attention to the case that you've made.

The second thing I want to do is to commend you and other parents who've appeared before this committee for putting your heads down and pushing on in circumstances which are hardly something that you'd want to wish on anyone. I think it was John Steinbeck who wrote about people who lead lives of quiet desperation. Perhaps it's an appropriate phrase with respect to you, but I think it's incumbent on us as legislators to address that. You shouldn't be leading lives of quiet desperation. The government should be holding out a hand to help address your special circumstances.

So I encourage you, keep plugging, and I'm sure at some point in time you'll meet with success. Hopefully, as I say, the government members sitting on this committee will be able to exert influence within their own caucus and help bring forward an amendment to this bill which should help address your special concerns.

Mr Martin: I've certainly listened to what you had to say and I can't help but be affected by the story. I guess I'm wondering, as perhaps others are, why the IPRC program wasn't implemented properly and why the school board itself, in seeing that it had something that did work re the home schooling situation—which was a situation that was presented to us last week as an alternative to a family who had a son who was learning-disabled, but it wasn't appropriate and they didn't want that, so they told the school board they didn't want that. So they were looking at hard-to-serve as a way of finding another route.

It seems to me that what we have here is an issue of people who have responsibility not taking responsibility for getting the job done that is supposed to be done under the legislation, Bill 80. I'm wondering what the hard-to-serve provision will do or could do for you if you were given that, except to perhaps have the ministry

buy for you some home schooling which the school board already has the ability to do and chooses not to.

Mrs Hunter: I believe, though, the school board cannot give home study for more than—I don't know what the length of time is, but it's not all that long—without it being for a strictly medical reason. Since our son, when he is at home and being taught the proper way, does not suffer the extreme vomiting he does when he attends regular school, then we do not have that medical problem there that leaves the board not being able to implement that. So it would have to be through a private service perhaps, and that would have to be from hard-to-serve, because the school board cannot purchase services from the private sector. Am I right there?

Mr Martin: We're going to check that out for you with some ministry officials so that you know and we know. It seems to me, though, that you do have a medical situation here that would warrant the school board, if it so chose, to provide you with what you need. I guess I'm not wont to let the school boards off the hook in terms of their responsibility in this instance and, it seems to me, so many other instances where they have a responsibility to take care of their own. But we'll wait and see what the—

Mrs Hunter: They did say, when we appealed to the board after it had been presented with the decision from the hard-to-serve committee—two members of the board said, "Yes, we can definitely supply home study." That's why we were so very surprised two months later to receive the letter saying, "Go to Huron county." I don't know what happened in the interim, what discussions they had.

Mr Martin: You've certainly brought it to our attention and we're going to check out the regulation on that so that we can share it with the rest of the committee, and when we get down to looking at this piece of legislation, we can have that and then perhaps have it help us in making the right decision re this particular piece.

Mr Hope: Just on that point, I think it's appropriate that the address of both Jim and Heather is on here and I think it's important that we forward the information directly to them.

The Vice-Chair: That's a good point. That's noted. Any other questions? If not, thank you for your presentation. We appreciate your coming before us.

Mrs Hunter: Thank you for allowing us to speak.

The Vice-Chair: Is there any other item of business for the committee at this time? If not, the standing committee on social development, which has been holding hearings on Bill 4, An Act to amend certain Acts relating to Education, stands adjourned.

The committee adjourned at 1753.

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Witmer, Elizabeth (Waterloo North/-Nord PC) for Mrs Cunningham

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Tuesday 15 June 1993

Journal des débats (Hansard)

Mardi 15 juin 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**



Education Statute Law
Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 15 June 1993

The committee met at 1536 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

JUSTICE FOR CHILDREN AND FOR YOUTH

The Vice-Chair (Mr Ron Eddy): The first presentation is by Justice for Children and for Youth. Please introduce yourselves and proceed. We have about 25 minutes.

Mr Brian Weagant: Good afternoon, Mr Chair. My name is Brian Weagant and this is Cheryl Milne. I'm the executive director of the Canadian Foundation for Children, Youth and the Law, and in Toronto we operate the community legal clinic called Justice for Children and Youth.

Our clientele are exclusively young people who are in a position to give instruction, so that's generally young people between the ages of 12 and 18, and the one exception to that is we act for parents with education law problems, such as special education problems and hard-to-serve problems. It's the results of that experience in acting for parents in those types of situations that we wish to bring the committee.

Ms Cheryl Milne: What I'd like to do is just explain to you the pieces of paper that you have in front of you from us. The first thing that was delivered some time ago was our response to proposed amendments, and that's a lengthy document. It addresses a lot of issues that are probably beyond the scope of Bill 4. They're looking at the broader issues of how we think some of the things should be changed to better provide special education services to our clients. It also addresses the aspect of suspensions and the stay of suspensions in the request for an appeal, and so we have a recommendation with respect to that.

We've also got before you a pink piece of paper, which is really sort of bullet points. They're summary points and the focus of that document is really our arguments for keeping section 35 in the legislation for the time being until something better is put in place or until the whole context is examined, instead of just removing one remedy that parents have at the moment. That's what the pink piece of paper represents.

We also have some other things that we've added and we'll refer to those in our presentation.

Mr Weagant: I'd like to speak first about the repeal

of the hard-to-serve provisions, which we feel is probably the worst thing about this bill and needs to be addressed.

At this point in time, we think there are about six kids who have been declared hard to serve in this province. We've acted in four of those cases. We're quite experienced in how hard to serve works and what the realities of it are on the street level. We thought it might be helpful to just touch on the history of section 35. We've had someone sitting in on the committee hearings so far. We have heard of many different rationales about what section 35 is about and why it should be repealed and why it should stay, and a lot of the things we've been hearing—leaving it in will open floodgates; we have to take it out because it's not been used—are totally inconsistent rationales.

The one we'd really like to deal with in the context of history is what will the effect be on the other processes under the act if section 35 is removed. It's our understanding that section 35 was not put in there only to address developmentally handicapped children who may be in health facilities at the time of the passing of Bill 82 and would be moved back over to education at a cost to the Minister of Education.

There's a letter from Dr Stephenson to Mr and Mrs Thompson, who are parents of one of the hard-to-serve kids in Ontario. I believe Mr Thompson, when he appeared in front of you, put this letter to you. That is our understanding of what section 35 was meant to do. I've checked the Hansard.

It was Mr Sweeney who challenged Dr Stephenson on the point and she actually changed the wording of section 35 to include kids whose collection of handicaps or learning disabilities was such that they challenged the programs that the school could buy or that the school had. We're referring to a very small number of kids in the school system.

Now, the current rationale that we've heard for leaving this section in the bill is that school boards have money for special education and that they're not using it properly, that they should be able to educate everybody, that they've got the funds to do it and that they're just not allocating funding within their own boards properly. That may or may not be the case. We can't speak to that. What we can speak to is the issue of whether a repeal of section 35 will make any difference at all to how school boards allocate special education funding.

First of all, there are six kids, to our knowledge, in the province who have successfully used this process.

This is not a floodgate argument. After the Thompson case, which was well publicized, we weren't deluged with parents saying, "We need our children to be declared hard to serve." Because of the definition under the act, we have to give proper legal advice about the children who were actually candidates for this.

The second thing you should know is that school boards don't make decisions about funding based on section 35. They don't think of it as, "Well, we don't have to properly allocate our funding within special education programs because we've always got section 35 to fall back on." The thing you have to know is that in all those cases, school boards resisted the use of section 35. This section was always accessed by parents. It was not accessed by the school boards. Even if, off the record, superintendents or the educators would tell you they didn't think they could help that particular kid, they sent their lawyers into that hearing to oppose the parents' application to have the kid declared hard to serve.

We'd ask you to consider that how school boards use their money on special education is totally irrelevant to whether section 35 stays in the act or not.

Ms Milne: Having acted on a couple of hard-to-serve cases myself, and also around the timing of the bill, especially with respect to the section that refers to June 2, 1992, I was left with the impression that the real issue that was being addressed in repealing section 35 is money and the allocation of money and who's going to pay for things.

The retroactivity of the bill is something that I couldn't help but interpret as being directed specifically at two successful cases that had taken place before June 2, 1992, and one that had actually been heard and was successful on June 18, 1992. The effect of having the retroactivity there was that the first two families would be cut off in a year's time; the other family would be cut off immediately. I believe that the issue of whether or not the money would be asked to be paid back has been addressed and that's been answered by the minister.

The real issue, though, is with respect to paying for private school funding.

The families that are affected by the repeal of section 35 are disproportionately low-income families. I can tell you right now that families that have the money to put their children in specialized private school placements do so. They don't go through the hard-to-serve process. It's an extremely cumbersome process. It's not something that is an easy route to accessing funds. It's very difficult. Many cases don't succeed because the school boards feel that they can service many of the kids who seek a hard-to-serve designation. As Brian said, it's not a floodgate situation.

We can't help but see that the focus seems to be on funding and who's going to pay for this, and that no one wants to be providing funds to private school placement,

even if those placements are the most appropriate for that child and may provide the only results.

It's interesting. As I was going through our files on special education in our office, I came across a newspaper article—I've had copies made; I think it should be in front of you—that refers to the Thompson case, and the headline was, "'Inhumane Attack': NDP Deplores Province's Fight to Avoid Payment to Dyslexic Boy." The NDP, in opposition at that time, was taking the position that fighting the Thompson case was something that was unfair to the family, and we can't help but see the irony and sort of the reversal now, with the government putting forward a position of repealing section 35, which in fact has allowed certain families within the province to access funding for private placements.

Mr Weagant: There's another irony in the way this bill is constructed, and that's in the provision that gives authority to the Minister of Education to pay for educational programs for youngsters who are getting OHIP services out of the country. I couldn't get all the information, but I'm sure government researchers have access to it.

I found out, for example, that basically this was to address a problem with nine or ten students who are in a Yale program. It's a locked psychiatric program on the Yale campus. It costs Ontario \$250,000 a year of OHIP money to pay for that program, and education is not provided. The educational cost is \$25,000, plus there's been an issue about these students, and this provision would now allow the Ministry of Education to simply pay that money.

These parents don't have to go through any educational process, IPRCs, hard-to-serve, but not only that; Ontario's law concerning locked facilities doesn't have to be observed either. I found out that in order to get into this program, you simply need the preapproval of a fellow named Dr Ecclestone. You can simply call him and find out whether he has to apply the law under the Child and Family Services Act about who gets into these programs and who doesn't, and he doesn't have to, because local law will apply.

There's a double irony in this, that the Ministry will simply fold and pay this cost without any process involved. You can add it up yourself, the amount of money being spent on these institutions. We act for parents in these situations. Good for parents who can get their kids the services they need. But the question must be asked, why are we spending, on these 10 alone, several million dollars a year when comparable facilities surely could be built in Ontario and employ Ontario labour, given what's happening with psychiatrists and cutbacks on OHIP?

I think between October 1991 and April 1993, \$4.6 million was spent on kids who go into programs where the per diem is less than \$200 a day. These students do not need preapproval if that is the per diem at the

American institution, and the education cost is rolled into that \$200 a day, so it's automatically paid through OHIP. We have to go to court, it seems, to get \$5,000 for one learning-disabled kid who wants to remain in Ontario to be educated. We would like to know why we shouldn't simply now advise parents to have a doctor declare the learning disability to be an OHIP-related matter, and send them to a school in the United States and have OHIP pay the whole cost and the parents don't have to go through any of the processes under the act.

We wanted to bring that to your attention because those two provisions sit almost side by side in this bill and we can't rationalize them.

Ms Milne: Just as one concluding point with respect to the hard to serve, we've heard the rationale that the removal of section 35 is to put more pressure on boards to provide the programs that are necessary and appropriate for the children within the local schools. We agree with that. More pressure can and should be put on boards to provide the services. But the safety net is still needed for those children who cannot be served by the board.

Removing section 35 right now without looking at the whole context is putting the cart before the horse, and removing a safety measure right now for parents who have tried for years to have their child educated within the board, and there's now an acknowledgement that it can't be done—they're 14 years old and they have to have a remedy now. Especially when kids get to be that age, you just can't play around with programs any more. You have to find something that works.

Just a last point, and then we can open up for questions, is with respect to the suspensions, and it's sort of a separate issue to the hard-to-serve question. What Bill 4 does is remove a stay, or makes it clear in the legislation that a request for an appeal of a suspension does not stay the suspension.

It's our position that this effectively removes the right of an appeal for a suspension. Usually, by the time the appeal is heard, the suspension has been served and it's history, and for children in school, the whole point of appealing the suspension is that they don't want to have to serve it, and to remove the stay removes the appeal.

1550

The suspensions generally aren't something that is included in the Ontario school records, so the only reason for appealing a suspension is to prevent the suspension from happening.

We agree that there might be circumstances in which it's not appropriate that the child remain in the school because the child may be a danger to others, and our recommendation contained in our brief is that the stay automatically happen when a student appeals a suspension. But if the principal or administrator is willing to put in writing that in fact it's a situation that involves

safety within the school, the child may be a danger to others, then the suspension would not be stayed pending an appeal, so that there is a stopgap. It is power that we would recommend go to the principal, but the way it's worded right now, there's no point in even appealing a suspension, ever, because usually they're for a fairly short duration, and by the time the board meets to hear the appeal, the suspension has been served.

Mr Weagant: Our office is experienced with suspensions and suspension appeals. This isn't going to be another one of those flooding problems. We do very few suspension appeals, and generally they fall into two categories: I guess the civil rights type of complaint where a student is disciplined for something they think they shouldn't be—there's the hat case going on in the London area right now—and more recently where students are being disciplined for behaviour that's associated with a specific learning disability and the suspension is being used as a form of programming. But other than that, you don't really need to worry that all of a sudden schools are going to be shut down by the number of suspension appeals; they just don't exist.

The Vice-Chair: We'll now have questions. Perhaps it will be one question per caucus to start with.

Mr Charles Beer (York North): Thank you for your presentation, the brief as well as the pink sheet.

First of all to the parliamentary assistant with respect to the OHIP issue that was raised, could you look into what they have said and perhaps just find out what the facts are there? I don't know myself, but I think there was a question around how that all worked, and I think it would be useful for the committee if we could get that information.

Mr Weagant: The fellow who wrote the cabinet submission was a fellow named Don Warner. He may be a good place to start. Carol Appathurai at Community and Social Services may have some information, and I found Dr Ecclestone himself quite approachable, although he didn't have the information. I can give that to you later.

Mr Beer: So we will be able to get that. The next thing, with respect to the date of June 2, 1992, do you know why that particular date is in the act in terms of the limit for when a student could be deemed hard to serve?

Ms Milne: I guess the answer would be, we don't know. It seems to have been plucked out of the air. The only rationale—it appeared that one of the bills, Bill 37, was introduced on June 2, 1992. The first version of this proposed legislation did not include a date at all. We met with the then Minister of Education, Marion Boyd, about that section and she assured us that they wouldn't be repealing section 35 until a further review had been done of all the procedures for special education under the act, and that was on August 7 that we met with her.

Then the bill died, and when it was reintroduced by Mr Silipo, the date appeared then. What had happened in the interim, though, was two successful hard-to-serve cases, and it was in the fall of 1991 that there were two cases where two kids had been declared hard to serve, so that there was a difference in that there were now real people receiving money. That's the only reason we could figure that there was a date introduced that made this retroactive to cut them off the funding.

Mr Beer: Finally then, if I might, to the parliamentary assistant with respect to the date, I guess, which appears in both 15(2)(a) and 15(2)(b), is there a possibility that those dates could be changed? Is the government considering any change, because it does seem a rather arbitrary date.

Mr Tony Martin (Sault Ste Marie): The minister has stated in the House that if the hard-to-serve provisions are passed in this bill, no parent will be asked to pay back funds which have been paid out by the ministry for education under the hard-to-serve piece of the legislation.

Ms Milne: That doesn't address the issue of continuing funding for those students who are now receiving money for their hard-to-serve placements; it addresses the issue of whether they're going to have to pay money back that they've received. But these are kids who are now in placements that are succeeding, they are working for these kids, and they are now faced with the prospect of being cut off as of September.

In fact, one child I know, they won't have a placement for him as of September 1. They will not have a place for him to be educated. This school board has acknowledged that they can't educate him. He's been in a placement that is successful, and the parents do not have the money to continue him in the current successful placement. So we need some reassurances that they are not going to be cut off prospectively. This child needs the placement that he has.

Mrs Dianne Cunningham (London North): I would like to thank both of you for this expert presentation and to share a little bit of sympathy with you, because it does depend on which minister you're talking to, meaning one of the three ministers of education, whether they are sympathetic to the views on behalf of the hard-to-serve students. So thank you for an excellent document. I hope that members of the government will read it. It's helpful when it's read.

I'd like to ask you a hypothetical question right now because it's my understanding that it's the school boards, through their IPRC committees, that recommend to parents that there's no placement within that school board or within a neighbouring board where the school board can purchase the service. It's at that point in time, and I'd like to be corrected if I'm incorrect here, that the hard-to-serve designation and process would jump in. So I need some clarification on that.

Ms Milne: At this point the hard-to-serve process does not automatically happen through the IPRC. If the board is admitting at the IPRC level that they don't have a placement, then it could be up to the parent to request a hard-to-serve hearing or the principal of the school can institute a hard-to-serve hearing, but it's a separate process from the IPRC.

Generally what happens, it's been our experience that the parents have gone through the IPRC process. Some of them have gone through appeals of IPRCs. Usually the child has been in special education placements for up to five, sometimes eight years without any noticeable academic gains, and so the parents have really tried utilizing the system that's there and is available. They reach a point where they say, "We have to do something," and so they have then requested the hard-to-serve because they've had the history of the child not making the academic gains. It's been a process separate from the IPRC, but it's never been a situation where the parents have never utilized the IPRC process in the first place. They have always, in my experience, been utilizing the special education services within that board for some time.

Mr Cunningham: So they actually have been designated by a committee of the board as a result of a recommendation by a superintendent.

Mr Weagant: Hard to serve, you mean?

Mr Cunningham: Yes, after being part of the process.

Mr Weagant: No. In fact, it will never be initiated by the school. Our experience is that because of the way the law is stated, the school has to have learning disability classes; it has to have behavioural classes. It's a label on a door. I've never seen an IPRC that says, "We can't serve this kid." The second they are identified as learning disabled, they automatically fit under one of those labels. In fact, the superintendents uniformly take the position that any kid can be served, on paper. They may tell you off the record, "We can't do what you want for this kid," but you'll never catch them saying they can't serve a kid.

That's why this process has only been accessed by parents. It's never been used to exclude a kid. It's been parents who have gone to the school and said: "Please exclude my kid. You've got him; he's not succeeding. He's a casualty."

Mrs Cunningham: So that in fact the child can have access to a program outside the school system in another facility, often?

Mr Weagant: That's correct.

Mrs Cunningham: You're quite right when you talk about floodgates to the private schools. This is what the minister is understanding, this is his concern, and he's obviously been advised, because he wouldn't know that this was happening unless somebody within the bureau-

cracy told him.

His other concern—

Mr Weagant: There is no evidence for it.

Mrs Cunningham: —you're quite right—is that this provision within the Education Act now isn't being used. So you're absolutely right on. Where the minister has not been well informed is that he still believes that if in fact a student cannot be placed through the IPRC—and I want you to respond to this because it's very important what you say, because then I can take it to the minister and he can get appropriate advice, free.

This is his concern: He advises me that if in fact the regular IPRC process is used and the school board and the parents are not satisfied, the parents have a route of appeal. Can you explain that?

1600

Mr Weagant: It's true. They have a route of appeal, but the question is, how much tooth is in that appeal process? There are some kids who are not going to be able to be served at the end of the day. There's some component to their education—and sometimes it's a residential component; sometimes it's a peer group component—that simply cannot be provided for by the local school board, so the best program the appeal process can come up with is not going to address that kid's particular needs.

Robbie Thompson is a case in point. He wasn't failing. He was pulled by the school psychologist as being emotionally at risk if he stayed there another day. He was so smart he could compensate for his own disabilities. Part of his problem was that if they brought in 20 instructors for this one kid and surrounded him with them, there was still the problem of his developmental needs, socially speaking. That would have been inappropriate for him as well, and that was what was targeted by the psychologist.

The program he ultimately went to and was very successful in is a school for very bright kids who specifically have his disability. That's the Gow School in upper New York state. We simply don't have the numbers to build a school like that in Ontario. It's a great resource to southern Ontario, I would think, and you should know that 60% of the graduating class go on to post-secondary school education out of the Gow. That's something our high schools can't boast here.

So the appeal process was inadequate for that student, and he's the example of what you should take back to the minister. There is always going to be a handful of kids whose collection of needs can't be addressed by what the school can bring to bear.

Mrs Cunningham: That's why we have the hard-to-serve policy.

Mr Weagant: That's why we have hard-to-serve.

Mrs Cunningham: Mr Chairman, if I just can state to you that I would like the parliamentary assistant at

this point in time to take this part of the presentation back to the minister. I think it's extremely important because it wasn't his understanding, how the appeal process in fact did not work and why this whole section was put into the act in the first place. We had public hearings on this whole issue for months and now, without any study of what's going to happen instead, it's put in as a part of this omnibus bill. We would have been happy to look at it under the old Bill 37, but he just simply has to withdraw it. It cannot go forward in this regard.

I want to put on the record that a Mrs Derosier called today to tell us that her child will probably end up on welfare or in jail if he in fact is forced back into the regular school system. So if people want to put their money into welfare programs or jails instead of prevention programs, moving forward, graduating on to higher education, I say that that is the responsibility of this government. These are the kinds of calls all of us are getting, because there isn't time for these people to come before this committee and tell you themselves.

The Vice-Chair: Your request is noted.

Ms Jenny Carter (Peterborough): Thank you for your presentation. I'm still puzzled, although we've discussed this issue on several occasions. Here we are in a province with over 10 million inhabitants. Why is it that there are just six cases that have come forward under this hard-to-serve provision? Is it because some parents with children to whom it might apply have been unaware of the possibilities or haven't had the ability or the persistence to go through with the procedure, or what's happening here?

Ms Milne: There are a couple of reasons why there are only six. One is that it's a fairly cumbersome process as it exists. We're not saying it's the perfect solution to this particular problem; it's just the existing one, and something needs to be there. But the process is very difficult. It's usually very strongly contested by the boards.

Parents who really feel that their child can benefit from a private, specialized placement who have the money remove their child from the public system and just place him or her; they don't go through this process. That probably accounts for some of the kids who are now in those placements. The parents have not taken on the school board because they don't have the time.

The majority of the kids I know about who have been designated hard to serve all come from low-income families. They don't have that option, so that's why there are very few. It's a fairly cumbersome, difficult process.

Another reason is that it is very strongly contested by the boards, and it's generally not that successful if the board can serve the child. Quite often what happens is that the parents don't go to the hard-to-serve process

first; they go through the IPRC and the appeal and they try their child in various programs. If one thing doesn't work one year, they'll try something new the next year. So it's been my experience that they are giving the school boards a lot of opportunities to tinker with programs to a certain extent until they've reached a limit where the child has digressed significantly in terms of his academics or has reached an emotional state where they just cannot afford to tinker any more.

Ms Carter: Do we have any idea how many parents are paying for this kind of service?

Mr Weagant: You can look at the enrolment of some of the private schools that target these specific kids. You must appreciate that once you get into these battles with local boards and people start digging in their heels and it's their child's future at stake, it's hell on these parents. By the time they get to a lawyer's office, they've been through the wringer, you know, mortgaged their house to the hilt.

We had a family come in. The woman hadn't worked outside the house for quite a few years. She'd taken a factory job and was working all night and they'd mortgage their house so they could send their kids to Sheila Morrison. If there's any possible way you'd avoid one of these battles, you would. Why spend your money on a lawyer if you can buy your kid an education? That's what it comes down to. Our resource is free, but it's only available to low-income people.

So that's something to keep in mind. You can phone Sheila Morrison and find out what her enrolment is. Phone the Gow School.

Mr Jim Wilson (Simcoe West): Sheila Morrison is located in my riding.

The Vice-Chair: Thank you for answering our questions and thank you for your presentation. We appreciate it.

Before proceeding to the next presentation, there are two items the committee needs to deal with. One is the summary of recommendations concerned. Mr Gardner will speak to that.

Mr Bob Gardner: I have two things from research for the members. One is an article that was in yesterday's Toronto Star. You may have seen it in the library's regular press clippings package, but just in case you didn't, it was on one of the cases brought forward by a witness on the hard-to-serve issue. So that is on your desk.

The other thing is the interim summary on Bill 4. This summary includes everything the committee heard or received up to yesterday. Just to clarify one thing, Justice for Children and Youth is included in this from its written brief. Now, we do claim to have a lot of foresight, but we don't actually claim to represent witnesses and what they said before they said it. So I will certainly adapt the summary in terms of what the

committee just heard.

We would plan, depending upon the committee's decisions to come, to give you one more summary so that you've got it going into clause-by-clause, and that will be everything the committee heard.

Mr Beer: Just for the record, I understand we would be having one more day of hearings, that the House leaders have said that next Monday can be a day of hearings. I just thought we could confirm that through you.

The Vice-Chair: Yes, that was the second item of business for the committee. That's fine to bring it up now. Is there a report on that from the House leaders by one of the whips at this time?

Mr Beer: I was just informed that they had come to that decision. I don't know if anyone else was.

Mrs Cunningham: Yes, I was informed too.

Mr Beer: Mrs Cunningham had the same report that Monday, then, would be a day of presentations and that Tuesday would be clause-by-clause. I believe that has been sent to the Chair or the clerk's office. Am I right?

The Vice-Chair: The clerk advises she has not received it as yet.

Mr Randy R. Hope (Chatham-Kent): Mr Beer, our indication is that we were waiting for both of your caucuses to respond back to us so that we can make a determination from there.

Mrs Cunningham: We responded last Thursday.

Mr Beer: That being the case, then, can we just accept that Monday we'll receive presentations, just so the clerk could go forward and get those people signed up?

The Vice-Chair: Yes. Are we clear on that? Are all members of the committee clear, then?

Mr Beer: Yes, we are.

1610

DURHAM BOARD OF EDUCATION

The Vice-Chair: Could the members of the Durham Board of Education come to the desk, please.

Welcome to the standing committee on social development regarding Bill 4, An Act to amend certain Acts relating to Education. Please introduce yourselves and proceed with your presentation. Hopefully there will be time for questions at the end of approximately 20 minutes.

Ms Louise Farr: Good afternoon, honourable members of the standing committee on social development. It is my pleasure as the chairperson of the Durham Board of Education to be here today. With me are two staff members from our board. I have Carol Yeo, superintendent of education, and Pat Prentice, our education officer of the early years. My name is Louise Farr.

Our purpose is to share with you some of our board's comments and concerns about Bill 4 and junior kindergarten. The April 1989 throne speech stated:

"The early childhood years are the most important years for acquiring basic learning and social skills. The quality of education that our children receive in these critical foundation years will largely determine their ability to succeed at school and in later years."

At this time, the provincial government made a commitment to the expansion of early childhood education. By 1992, all school boards would be required to offer half-day kindergarten for five-year-olds and, by 1994, boards will be expected to provide half-day junior kindergarten for four-year-olds. Attendance would remain optional.

Bill 4, a bill to amend the Education Act and related legislation, entered second reading on April 28, 1993, and was referred to the standing committee on social development. The amendments in this bill continue to make the provision for half-day junior kindergarten mandatory for school boards by September 1994. The legislation does allow for a phase-in period of three years, according to conditions to be set out in regulations at a future date.

The Honourable Tony Martin from Sault Ste Marie, whom I'm pleased to see here, made the following statement April 28, 1993, in the Legislative Assembly:

"Some people ask, why is the government continuing to make junior kindergarten mandatory? We say very clearly that this government is committed to permitting young children everywhere in the province to receive better educational opportunities through early learning, which has been shown to help in their later learning years." The Durham Board of Education would question, why is the government continuing to make junior kindergarten mandatory at this time, when school boards are trying to deal with a new financial reality?

Our comments during this presentation will focus on the following areas: accountability, excellence, equity and partnership.

In January 1992, boards of education received notification from the government that they could expect 1%, 2% and 2% transfer payment increases over the next three years. The purpose of this announcement was to facilitate long-term budgetary planning. In November 1992, however, the Treasurer of Ontario reduced these transfer payments. In the 1993 provincial budget, the 8% taxation of the insurance premiums included boards of education.

As an example, to the Durham Board of Education this new tax burden alone increased our costs to our local ratepayers of over half a million dollars, another one of Durham's contributions to the provincial government revenues, something that has nothing to do absolutely with education in our classrooms for our students.

The reallocation of transition assistance funding to low-assessment boards this spring caused a further reduction in provincial dollars to our board. Many boards of education had set budgets and mill rates after lengthy, ongoing public discussions and community consultations, only to be informed in April 1993 of further decreases in funding for specific educational programs. This is clearly not the time to be mandating the implementation of new programs.

The social contract negotiating process that has occurred in the past month has reinforced in the minds of our public the difficult financial situation of this province that we are all facing in each of our school boards. The Durham Board of Education's share of the approximately \$425 million that this government wishes to withhold from the education sector would be about \$11.5 million. School boards located in growth areas such as Durham do not have the additional funds required, or the accommodation space available, to implement junior kindergarten in these economically challenging times.

Positive early learning experiences encourage children to attain the literacy, numeracy, knowledge, skills and values they will need for personal fulfilment, lifelong learning, effective functioning in the world of work and full participation in our society.

Boards of education have yet to receive an Early Years document outlining the educational program philosophy for junior kindergarten and kindergarten, the response to the Early Years consultation paper, the research document on exemplary kindergarten programs and policy/program direction linking the Early Years and the common curriculum, grades 1 through 9. These documents would hopefully provide direction to all those who have responsibility for curriculum development, implementation and review in Ontario, being teachers, principals, consultants-facilitators, school board supervisory officers and, last but certainly not least, our trustees.

The intended implementation date of September 1994 is only 14 months away. Curriculum review and development, personnel in-service and community awareness are time-consuming processes but must occur to ensure program excellence, which we all desire.

Bill 4 states that the Lieutenant Governor in Council will have the power to allow a board of education to phase in the junior kindergarten requirement by September 1, 1997. It is our understanding in Durham that the intent of this additional amendment would require boards of education to begin offering some junior kindergarten programs by August 31, 1994. Concerns have been raised by trustees, staff and our community ratepayers about who will determine the locations of the program, what criteria will be used to select locations, where will the program be implemented and when will the program be implemented?

A three-year phase-in process for the implementation

of junior kindergarten does not promote equity of access and equity of opportunity for the children in the Durham Board of Education, and I would like to emphasize the need to further explore the proposed requirement for phased-in implementation, and I did have the opportunity to raise this with the honourable Minister of Education and Training, David Cooke, and his assistant, Keith Baird, on the weekend at our Ontario Public School Boards' Association conference in Kitchener.

The issue of continuity of a young child's educational experiences and the integration of the different systems and settings within which children can receive care cannot simply be solved with an addition to the Education Act that would allow boards of education to be the operator of licensed child care programs under the Day Nurseries Act.

It is our understanding that the community education and outreach branch of the Ministry of Education and Training has created a team to respond to the government's child care reform agenda, with the intent of developing a stronger partnership between the education and child care systems. It would appear that a cabinet submission with detailed policy options is being developed to provide direction for future child care legislation.

I would add that hopefully this reform will address the responsibility of the parent and the development of parental skills, combined with community support systems and the educational system in the care of a child. The role of the parent continues to be a glaring missing integral link as a partner in addressing the needs of a young child in Ontario.

In 1987, the government announced its support for child care centres in schools. The goal was to include school-based child care space in all new schools and encourage the use of vacant space in existing schools for this purpose. This entailed a formal partnership between the Ministry of Education and the Ministry of Community and Social Services. The Ministry of Education provided capital funding for the child care facilities required and the Ministry of Community and Social Services provided the startup equipment and operating grants.

The interrelationship of the educational and child care systems and how a child's learning experiences in the different settings can be integrated and enhanced requires stakeholder consultation, policy/program development and changes to the Day Nurseries Act as well as the Education Act.

Partnerships must root our schools more firmly in the communities they serve and recognize that education is a shared responsibility.

In conclusion, the capacity and ability of school boards to implement junior kindergarten must be examined by this government as it considers Bill 4 and the

development of the regulations. Ratepayers at the local level cannot be expected to absorb the additional cost, to which I would add, nor should the junior kindergarten program be implemented at the expense of existing students currently enrolled in our public school system.

The Vice-Chair: Thank you for your presentation. One question per caucus.

Mr Jim Wilson: An excellent presentation; I couldn't agree with you more. It does make it difficult to ask questions when you agree.

It's the same argument in Simcoe county, which I represent. We're having a terrible time trying to implement the dictates from Queen's Park, particularly in the two areas that you've concentrated on in your brief with respect to child care and junior kindergarten.

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I'm particularly interested in a couple of things. One is, are you able to explain and do you get acceptance? Because I know Durham, along with all of the other boards, I suppose, had a very, very difficult time coming to terms with budgets this year. There's a groundswell of activity and activism among the public. Ratepayers' associations and taxpayers' coalitions have become very active. When you get hit with downloading, something that perhaps the public doesn't know, and I wouldn't have thought of in terms of taxation on insurance premiums: half a million dollars is a lot of money. You'd agree with this statement? I suppose the trustees get all the blame and it's very difficult to explain to the public something like insurance premiums which may bump out other programs. Can you give us a sense of what you've gone through and what this bill might mean in terms of downloading more?

Ms Farr: Yes. We have taken our budget proceedings around to each of our seven municipalities. We went public with it. We talked about the number of cuts we were looking at making—program services, staffing cutbacks and so forth, and we certainly have cut back in our staffing complement, which hit each of our seven employee groups—and we invited our public. We advised them ahead of time that we were going to the municipalities. We invited them to make presentations. They were formalized. They were very articulate. They certainly informed themselves on the issues of education.

We heard from all sides. In one respect, it was our public educating our public, because we heard from parents who didn't want us to cut programs and services and we heard from a tax coalition that felt we weren't doing enough. It was an opportunity for them to hear each other. The tax coalition thinks we give in too much to small pressure groups, but I remind it that it is itself a special interest group. While their view is important for us to hear, it is not necessarily reflective of the entire community. We certainly had a mixed blend of these kinds of presentations.

The very difficult aspect too is that I don't think that people generally do not want to support public education. Education I think is a priority in most people's minds, no matter their economic or social status. However, it is difficult to explain, as an example, the 8% surtax on insurance liability; there's \$500,000. The OHIP levy we were hit with a few years ago; \$2 million to our local ratepayers. What does that have to do with public education? It has nothing to do with education in the classroom, but the public wants you to make that direct link between, "How have my taxes gone up?" and, "How has my education system improved for my children?" If you can make that link, by and large, I think the public is willing to support it, but a number of issues that have impacted upon our budgets in recent years have nothing to do with education.

Mr Jim Wilson: I appreciate your comments, because I know the frustration too. The public questions why one layer of government would want to be taxing the next layer of government. It's significant that last year when the finance ministers of the country met, I think it was in February of last year, it was interesting to read their communiqué which came out and said that they agreed there was one taxpayer and only one taxpayer. It has taken 125 years to get to that point, I guess.

Ms Farr: In the same respect, if I may, when they look at the burgeoning needs that are already existing in the system, our public clearly articulated to us in our rounds of budget that it did not want us to cut programs and services that are existing now. Even though they are beyond the core curriculum, they really appreciate the instrumental music program, they really appreciate the arts programs we're running. Outdoor education, environmental education, all of those subjects are outside of the core. They value them. They want us to continue to introduce them.

They do realize, however, that if we are required to add another 3,000 to 4,000 students to the system, while we already have just over 500 portables in place, where are they going to be housed? How are they going to be accommodated? In the operating budgets, while of course we're supported by about 40% by the provincial funding, another 60% is the local share. We have been told that even the provincial share of 40% is going to come out of existing education dollars. The piece of the pie for education is shrinking in itself, so how are we going to afford it?

Mr Jim Wilson: What would the cost be for junior kindergarten? You say it's 3,000 students, approximately, in Durham?

Ms Farr: Operating budget on an annual basis?

Mr Jim Wilson: Yes, full year once fully implemented, if you've got it.

Ms Farr: One item I can give you is just this year's

example of allocation of capital. We were awarded \$8.7 million; \$4.7 million of that was set aside to address a need that was being created by the provincial government, to address junior kindergarten. In order to award us those dollars, they had to bypass three additions that we requested on schools that have opened within the last five years that are absolutely at capacity and one new elementary school. So they had to bypass existing needs that have been justified, have not been questioned by the Ministry of Education as being accurate, but they had to bypass that in order to fund JK.

Mr Jim Wilson: It's a question of priorities.

Ms Farr: It's very difficult to explain that to your public, how you're going to look after the existing students. That's the dilemma we're facing.

Mr Tony Rizzo (Oakwood): Can you agree today that maybe the major problem you are facing is, how can you absorb the additional cost?

Ms Farr: It's the additional cost and accommodating the students, yes.

Mr Rizzo: Accommodating the students in terms of what?

Ms Farr: As I said, we already have over 500 portables existing in the Durham board. If you take the word "portable" in its truest sense, it really means you can move it at some point. Our portables now are becoming permanent fixtures, with 10 to 12 portables attached to each elementary school. The average elementary school a decade ago was about 350 students. We now have elementary schools with 700 and 800 students, so that brings all new kinds of problems. The schools were not built to accommodate that number of students in libraries, gymnasiums, washrooms, science and art labs, all those kinds of things. So it brings a new set of problems with it.

Mr Rizzo: But if you had the money and if you had the time to get ready for new accommodation, you would have nothing against the idea of—

Ms Farr: The Durham Board of Education has not had that debate. We've never really taken the time to have it, because it was always our position first of all that we should be able to remain autonomous, to make the decision on whether we wanted to implement the program. That was the first issue. Secondly, we haven't had the debate because accommodation and cost have always been a problem for us, so I cannot speak for our board as to whether philosophically we would adopt it.

Personally, I can say I see educational merit in the junior kindergarten program, but I also very largely see a custodial element attached to that. When we ask for the rationale from the NDP government, when I have asked my local MPPs—I'm sorry that Larry couldn't stay, but he did explain that he had to catch an airplane—the response we're given, I think across the province, is that it is to address the social needs of a

number of students, high-risk kids. We're quoted the number of people that are incarcerated in our jails, the drug abuse, substance abuse, sexual abuse. I would have to ask, are you suggesting that all of those societal issues are a direct result of 17 school boards not having junior kindergarten programs? I would think not. I think it's a rather simplistic approach to a very big problem that we face in society.

I don't think anyone would argue against supporting children who are at risk, finding adequate day care programs, adequate education, but let's take those provincial dollars and really address the problem that is at issue. Are we going to solve these societal problems by placing three-and-a-half-year-olds in our schools for two and a half hours a day and sending them back to dysfunctional homes without proper parental skills in place, with family violence in place, with substance abuse and all of those issues?

I don't know that through the traditional mode of JK we are ever going to be addressing the philosophy that is apparently behind the whole issue of junior kindergarten. I think we can better use these dollars and identify, is it 10% of the population of these high-risk kids who need their needs addressed? Let's really address them in a meaningful, holistic way and let the other children whose parents can quite properly, quite adequately look after their needs when they're three and a half years old—they can either provide those services in the home, as I certainly did as a parent, and I have the first graduate in civil engineering in the University of Waterloo and he's going very well, thank you very much. I think a number of parents in this province are quite capable of doing that, and the others who require work and so on can place them in adequate programs out there. I don't know that society needs to take on the needs of all these children.

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Mr Rizzo: That's wanted I want to verify, because this was my impression originally. So the problem with the money is only a marginal problem.

Ms Farr: It's part of the picture.

Mr Rizzo: It's part of the problem, but even if you had the money, you would suggest not to go ahead with this idea.

Ms Farr: The point is that the money is not there so I think it's a moot point, and that's what we have to keep up front. We're here. We did not address the philosophy of the program because right now you are looking at having the third reading of the bill that would pass it, and therefore the costs of the program are going to be right in front of us and that is our first obstacle.

Mr Rizzo: You have no idea how much it costs—

The Vice-Chair: Sorry, there's no further time. Is there one more question over on this side?

Ms Farr: We do have the costing, and we can leave

a full report which we have shared with all the members of Parliament, and the details are all here of our accommodation and operating costs of the program.

Mrs Yvonne O'Neill (Ottawa-Rideau): Could I go to the section of your brief, Mrs Farr, on equity? I think you likely have more experience with that than we do. I just wondered if you're into this mode yet; I understand there are application forms that boards have been sent. I also wanted to reconfirm what you stated, that your capital allocations were reprioritized, if I may use that word.

Ms Farr: Absolutely. "Usurped" is the word.

Ms O'Neill: Did you have space for junior kindergarten anywhere on the original application?

Ms Farr: No. We have said there are additional millions of dollars that would be required to accommodate junior kindergarten, but certainly our prioritized list for last year's allocation in the next few years, and we could say for the next 10, 15, 20 years, certainly beyond my time on the board of education, I am sure, would address existing students beyond the JK implementation.

Mrs O'Neill: Could I ask you what you found out when you had the discussion you spoke about on the weekend with the present minister regarding this issue? You said you had an opportunity to talk to him about it. Could you answer my question about the application form?

Ms Farr: Actually, the minister did not respond to the question. Keith Baird responded. He said the difficulty the government has in considering a one-time implementation, for instance in 1997 or any other given year versus a three-year phase-in, was because of the ballooning effect of the cost, that it would hit us all in one fell swoop both at the provincial level and the board.

I said: "What is wrong with long-range planning? Allocate us the capital dollars and we will retrofit the schools and change the classrooms and so on to get ready for full implementation in 1997 if legislation requires us to do so, and it is only under those circumstances that we will implement. And phase in your dollars: You hold back, phase in accounting, put aside moneys in 1994, 1995, and 1996 for full operating in 1997."

He said, "You mean we should give you the money and you not start up the program?" I said: "No. We'd be quite happy that you keep your operating dollars, earn interest on them and then have the dollars in place for full implementation in 1997."

We would have great difficulty across our municipalities telling any parent of a four-year-old in Oshawa that they're entitled to it, but in Pickering you have a four-year-old in or a three-and-one-half-year-old and, "You cannot have it because we're phasing it in."

The Vice-Chair: Thank you for your presentation.

Ms Farr: Thank you very much for the opportunity. I appreciate your attention.

Mrs Cunningham: Just while the next group is coming to the mike, a 10-second comment: I think it's interesting that this government is out with its Commission on Learning for the next 18 months. One of the issues that will be, I'm sure, brought to its attention is early childhood education. It is an opportunity for some public discussion around how it can be delivered best, either through the child care system or through the school board, and how one can cooperate.

But it's interesting to note that this bill is legislating before the discussions are finished and that the public is not given the time it needs. Here we are in the last couple of weeks of school, asking school boards and parents to come down here so this legislation can be rammed through. At the same time, we're spending some \$4 million on a public consultation and paying individual 17-year-old members \$450 a day. You just have to wonder about the priorities.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Vice-Chair: The next group is the Ontario Public School Boards' Association. We are running considerably behind time, so we'll have to limit questions somewhat more. Please introduce yourselves and proceed with your presentation.

Ms Donna Cansfield: My name is Donna Cansfield. I'm the first vice-president of the Ontario Public School Boards' Association. I thank you for the opportunity to address the committee.

The Ontario Public School Boards' Association represents over 90 public boards of education from all regions of the province, serving over 1.7 million students and adult learners. We speak for public education in Ontario and represent the interests of public school boards to the government, public and media. We would like to respond to some key amendments to Bill 4.

Dealing first with the adjustment to school board boundaries, section 9, the current provisions of the Municipal Boundary Negotiations Act have been of continuing concern to OPSBA. It is our understanding that the act suggests that the local school board is consulted at the fact-finding stage only. The minister, upon receipt of an application from a municipality, "shall obtain the opinion of any school board that he or she considers is affected by the application." The local school board's opinion is sought as part of the fact-finding process in the early stages of the boundary negotiations. Once the negotiating stage is reached, the stage at which the original application may be amended or expanded significantly, the only parties to the process are the party municipalities and of course the provincial government.

This is not school board boundary change by Education Act regulation but in fact school board boundary

adjustment by means of the legislation governing municipal government, the Municipal Boundary Negotiations Act. If this is indeed the intent, OPSBA does have serious concerns with this proposed amendment to the Education Act, as the current law does not allow school boards that would be affected by boundary or annexation proposals to be participants in the process.

It is becoming apparent that there will be more municipal boundary adjustments that reflect the policy direction of the provincial government of "strengthening" municipal government by county restructuring and boundary adjustments in an effort to ensure the fiscal viability of municipalities. OPSBA notes that municipal boundary changes could therefore significantly impact some public school boards, particularly those in areas that do not have boundaries completed coterminous with county governments. Although many public school board jurisdictions complement county boundaries, there are some instances in which this is not the case: the London Board of Education, the Windsor Board of Education and the Hamilton Board of Education. The amendment could also impact public school boards, such as the Northumberland and Newcastle Board of Education, which cover more than one municipal jurisdiction.

These city school boards and their neighbouring boards could experience a loss or rearrangement of a significant portion of their enrolment and assessment base. OPSBA strongly objects to this process, which suggests that once municipal borders are altered through the Municipal Boundary Negotiations Act, the school board boundaries shall also be "deemed" to be altered. It is a process that does not include school boards as parties. School boards are not participants but observers, and this is unacceptable.

Our recommendations therefore are:

—That the Ministry of Education and Training and the Ministry of Municipal Affairs develop mechanisms to allow for a coordinated and collaborative approach to issues affecting school boards as local governments.

—That the Municipal Boundary Negotiations Act be amended in this session of the Legislature to provide school boards an effective role as parties to any boundary negotiation processes in the affected areas.

—That municipal reorganization—annexation or amalgamation—be timed to allow elected officials to complete their lawful term of office.

I would then like to go on to student suspension, section 12. In this section it is proposed that the period of suspension shall not exceed 20 school days and that the appeal of a suspension does not delay the suspension. A school board will be able to establish a committee to deal with suspensions and expulsions.

Our comments are certainly very strong in this area. We do not support that an appeal of a suspension not stay the suspension. OPSBA does not support the

amendment limiting the maximum amount of time for a suspension to 20 school days, regardless of the reason for the suspension. In certain circumstances, and given the seriousness of the offence, a suspension of 20 days is not sufficient. Certainly in this day of violence it is imperative that school boards have the authority to recognize their local autonomy in dealing with this issue in their school boards, and 20 days is definitely insufficient.

Although supportive of the right of the board to establish a committee to hear appeals to suspensions, we have concerns with the absolute authority of the committee with regard to the expulsion of a student. Expulsion of a student is an extremely serious decision. It involves the denial of the right of a student to attend school in the area of jurisdiction of a board which she or he would normally have the right to attend as a resident pupil. Such a serious decision has an impact on future opportunities for that student. We do not support the amendment which would enable a committee of the board to expel a student without approval of the whole board, as obviously it's the entire board that has the right to make decisions by majority under the Education Act.

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We recommend that the draft amendments for student suspension be revised to ensure that the length of suspension is at the discretion of the local school board, which in fact is its right.

Dealing with the kindergarten section, we have particularly strong feelings on this issue. We're pleased that the ministry has addressed the phase-in implementation issue. However, the public school boards that do not provide junior kindergarten programs have stressed the need for flexibility in implementation strategies, particularly with regard to the utilization of early childhood education staff and other measures to reduce costs in this difficult financial environment. It is important to reaffirm OPSBA's position that junior kindergarten programs not—underline not—be mandatory but be at the discretion of the local board.

We're also anxious to review the conditions in the regulations which will allow the phase-in flexibility prior to the passage of the bill, and this is dealing with the issue of equity.

We're also very concerned that in fact the issue of local autonomy is being usurped. Certainly, the concern has been expressed that in a time of financial constraint there have not been sufficient dollars set aside for junior kindergarten. However, the other issue is that there are certainly areas within this province which do not want junior kindergarten because their local communities don't want junior kindergarten. It's another example of a top-down mandate to local government in areas where they do not want this initiative. Even if the money was there, they don't want the initiative.

This is important. There are 19 recalcitrant boards and

they will not phase in junior kindergarten if they choose not to. They will exercise their local autonomy.

With the hard-to-serve students, we restate our position as stated previously in response to the minister's consultation document on the integration of exceptional students, and again we have concerns.

The hard-to-serve designation was placed in the Education Act for those rare situations where a school board could not provide a program to meet the educational needs of the individual child. In such cases the province assumes the total cost of the placement.

Designating a pupil as hard to serve requires a more complicated process than that required for the IPRC review. We support amendments to the Education Act which provide for the rationalization of this process so that hard-to-serve pupils are governed by the same provisions that apply to other exceptional pupils. The current IPRC process has worked very well in the identification of students with special needs and the development of programs which meet these needs.

The designation of a pupil as hard to serve has rarely been utilized by school boards, and this is due in part to the responsiveness of the boards in the provision and development of programs to meet the needs of all exceptional pupils. It is also due in part to the lack of clarification of the terms used to define special education pupils.

OPSBA cannot support the removal of those sections of the Education Act which deal with designating pupils as hard to serve without assurances—and I mean strong assurances—that adequately provide provincial resources for the development of programs to meet the educational needs of these students. If these needs cannot be met by the local board or purchased from another board, then the province must provide for the placement outside the province or adequate funding for school boards to develop the appropriate programs.

OPSBA therefore suggests that the removal of the hard-to-serve designation cannot be treated in isolation from the whole question of the adequacy of funding for special education students. The current level of provincial funding for special education programs is already inadequate to meet needs.

Based on these specific concerns over the hard-to-serve designation and more general concerns over the identification process in general, we recommend that the government undertake a review and clarification of the terminology used to designate special education pupils.

With reference to continuing education, this section of the bill proposes to remove the existing distinctions between the qualifications for admission to a continuing education course that is eligible for credit towards a secondary school diploma and the qualifications for admission to a day school course.

Our comments are that we support the amendment which makes admission requirements for regular day school and credit continuing education courses similar. Adults have the same right to education, but OPSBA would like to stress that schools must have some discretion in the appropriate placement of these adults, and again that's an issue of local autonomy.

We wish to express some concern with regard to access to programs in regular day school, and that has to do in many cases with the demographics of the area. The Ministry of Education and Training needs to examine the issue of adequate safeguards and refer concerns in this area to appropriate ministries for examination as required. I could give you an example of this: We understand that there is some concern being expressed that other areas will have the opportunity to give secondary school diplomas.

We do not support the amendment which provides boards with the authority to require a deposit for textbooks provided to pupils enrolled in continuing education credit courses. If adult education is to be recognized as a legitimate component of the education system, then adequate and equitable funding must be guaranteed by the provincial government to provide for textbooks for these programs. It seems somewhat ludicrous in fact to suggest that you support lifelong learning and then restrict the access if you can't purchase the books.

With reference to the notice of offences, we agree with this proposal but we would like to highlight a concern, and that concern has been raised around the school board liability in the event that the board has not been advised of the offence. We would like some answers in particular in this area.

Our recommendation is that the bill be amended to ensure that in the cases of reporting a conviction to the minister, no action may be taken against the board. That's a liability issue.

OPSBA understands that the amendment for the authorization for school boards to operate day nurseries will allow us to establish, operate and maintain these day nurseries.

Our comment: We believe that the role of the educational system in the provision of child care services again should be a matter of local board autonomy, not legislated by government. While OPSBA is pleased that boards are being given the option, there is concern too that the provision of child care services not become a financial responsibility of school boards. As an example, I will tell you now that across this province school boards currently fund \$346.9 million worth of psychosocial support services. I suggest that's more than what Comsoc currently has and that we cannot assume more responsibilities.

We also have concern over the sick leave credits. It is our understanding that the bill proposes that intervening

employment would no longer prevent the transfer of an employee's sick leave credit from one school board to another. OPSBA does not support the removal of intervening employment from the Education Act.

OPSBA cannot agree to revision which would extend provisions for occasional teachers that would otherwise be an issue between the parties under the Ontario Labour Relations Act. In the alternative, a provision which might remove intervening employment should exclude the transfer of sick leave from subsection 158(1), retirement gratuity plans. In some instances, people who have already left have received compensation, so in fact you would be giving them two.

Supervisory officers for school boards with 2,000 or less enrolment: This is of major concern to us as well. In 1990, the association expressed its concerns to the Ministry of Education on behalf of its northern Ontario members regarding the withdrawal in 1989 of Ministry of Education supervisory services for small northern school boards. Since then, many of these small boards have attempted to negotiate the sharing of supervisory services, but arrangements have not been developed due to financial restrictions and due to the distance between these boards. I think in fact that some members should be aware that in order to access some of these boards you have to take a canoe, an airplane or some other type of transportation. Roads do not exist.

The requirement for smaller boards to have a supervisory officer either on staff or as a shared position impacts all boards in an area. Agreements for the sharing of this position among school boards must also take into consideration the administrative implications, travel costs and sharing of personnel. In fact, it's cheaper to fly to England than it is to fly to Toronto from northern Ontario, and that's one example.

The Ministry of Education must be aware of the direct and indirect administrative and financial implications and provide the necessary support.

We would like to take this opportunity to note the special needs of the northern and isolate boards. They were being addressed in part through the northern education project, which in fact is completed, but the recommendations from this project have not been implemented. Most recently, one of the directors' positions for Umfreville District School Area Board that was part of a cooperative services unit among isolate boards was reduced to half-time. In the Umfreville model, small isolate boards are cooperating to provide a range of essential services which individually they could not afford, and we've given you a list. We strongly urge the government to assist small boards by providing funding and resource support to enable the successful development of a network of shared supervisory officer positions.

We've given you a list of the summary of recommendations and our conclusions. We would also like to add

at this time, if you would like, a copy of the northern board report from OPSBA. We would be pleased to have it made available for you. This is of very serious concern to OPSBA for its northern boards. In fact, the recommendations that were put forward by the government are almost wholeheartedly supported by the northern and isolate boards. They are feeling somewhat isolated themselves from this government as far as the implementation of those recommendations is concerned.

1650

The Vice-Chair: Thank you for your presentation. I'm sorry to limit the questions, but in order to hear all the delegations this afternoon we must limit it to one question per caucus, please.

Mr Beer: Thank you for your presentation. You've dealt with a great number of issues and obviously we can't cover them all, but we appreciate what is in here.

I wonder if I could just take you to the question of child care services and boards, because that's not one that we've been able to discuss to any great extent. Could you tell us, as you are here representing the public school boards, in terms of what you know or are aware of, where does the government see school boards going in terms of the provision of child care? Do you see the change to the act in granting boards authority to run child care as simply one in which they're trying to meet a couple of disparate needs out in the community, or is this something where perhaps the boards are going to be asked to take over child care? Do you have any clearer sense? Have you been involved in the negotiations? We had the leaked cabinet document of a few months ago. Where is OPSBA in terms of the discussions around this and what's your understanding of where we're going?

Ms Cansfield: Certainly, from OPSBA's position, we're in the business of education and not in the business of child care. We see this as another downloading responsibility that's being asked for by the boards. Each board of course, locally, will take its own position as far as whether or not it would like to have this done is concerned.

But the dollars are not there. For a child, I think it's part of the seamless day philosophy and the best place for a child to be. When you get into philosophical arguments, I think there are some that are very valid, but you have to make some delineation between whose responsibility is what. There comes a point when enough is enough, and I believe this is another issue of downloading.

There are not sufficient dollars around to deal with the issue of child care in the local municipalities, so of course what better place than the structure they call a school, and here we go. What you'll do is, "Rather than give them the dollars to build the facility or to have an independent run it, let's just give them the responsibility and then let the local municipal people force the school boards into this situation."

I think you'll find school boards have learned a new word, and it's "No, thank you." We're in the business of education; we're not in the business of child care. We appreciate the need, we understand the need, we're prepared to work with you but will not assume that responsibility entirely.

In this case what we're afraid of is that a provincial mandate or initiative will somehow end up as a local issue, and as someone indicated earlier, the local trustee certainly is far more accessible than some other levels of government.

Ms Carter: We were just hearing previously that it wouldn't be fair to phase in junior kindergarten because some kids would get it and some wouldn't. Now you're saying that a local board should be able to decide whether it wants it, but wouldn't that lead to unfairness as between one area and another?

I know that in long-term care, for example, one thing we're trying to do is to make sure that the same basic services are available all across the province. Wouldn't you think that applies to education too?

Ms Cansfield: Certainly, it does. But it's interesting that one of the situations is that people just automatically put the dollars in with the philosophical discussion.

I'll give you an example of York region. York region, as you know, is an extraordinary growth area. They have situations where they built a school, let's say in the last five or six years. They now have so many portables on site that under their municipal regulations they cannot put more portables. Even if they wanted to put junior kindergarten in the schools, they can't. They haven't got any room unless they build on to the school and they may not have the provisions to go beyond a height restriction. It's not as simple as you might think it is.

Those are the kinds of decisions, yes, of course, the boards would be looking at. At this time, when you've got some opportunity to work in a cooperative way with another level of government, one would assume that they would look—and I say this respectfully—and do their homework, at all the situations across the province and not simply stick the issue of money on us, because certainly money is one, accommodation is another, capital expenditures is another, and "We don't want it for my community" is quite another.

All those things have to be looked at across 176 school boards in this province. Of course, the bottom line is, who pays?

Mrs Cunningham: Thank you for an excellent brief. There will be some time, although rushed—I'm told one afternoon—for the amendments. You can imagine how difficult it will be. But there's some sense of urgency which I haven't quite figured out on behalf of the government with regard to this bill.

I'm wondering if you would help us just a little bit with regard to your position on section 35. Actually, I

think you talk a little bit about it—hard-to-serve pupils anyway. The minister has told us that one of the reasons for this section is that the private schools are looking for the work. The other reason for the section is that it's not being used anyway. I'm wondering, in your experience in talking to boards, what you think the reason is that the government would put this in this bill at this time, because quite frankly it's going to hold the whole legislation up as far as we're concerned.

Ms Cansfield: I'll give you a personal opinion on this. Thistletown centre is in Etobicoke. It serves a very restricted number of children who are designated in some instances hard-to-serve or severe behavioural management problems. That facility that serves very few children requires about \$16 million worth of funding. I would suggest to you that by putting these children back into the local community, suddenly we have access to \$16 million. As you know, there will be no funds that will flow with these children and so the school boards will pick up the tab and the government will access \$16 million. That's one institution I can think of.

The concern we have is that we must all remember that we're in the business for the learner, for what's in the best interests of the learner, and we somehow keep forgetting that. With children who are designated hard to serve or with special behavioral management difficulties, it's absurd to consider putting them back into the classroom without the management strategy for them to deal with the classroom.

The world isn't made up of Suzy Sunshines any more. There are a lot of difficulties in the classroom. I just find it incredible that a child who has been designated with these difficulties would suddenly be put in a situation that would not give them the tools with which to cope, because certainly the classroom teacher cannot do it. They do not have either the tools or the time. You can't take a situation from almost a 2:1 ratio to a 30:1 and expect that these children will survive.

If you truly believe in what's in the best interests of the learner, then these children in particular deserve a great deal of special consideration along with all special children.

1700

ONTARIO ASSOCIATION FOR CHILD CARE IN EDUCATION

The Vice-Chair: The next presenter represents the Ontario Association for Child Care. Please introduce yourself and proceed with your presentation.

Ms Valerie Sterling: I apologize for two colleagues who were supposed to be here but meetings have prevented that. I'm Valerie Sterling. I'm a consultant with the North York Board of Education. I am here, though, this afternoon representing the Ontario Association for Child Care in Education.

This organization is a provincial organization that is

committed to support child care in the education system. The members have responsibility for implementing child care policies of school boards. These responsibilities include community development, service development, program support, staff and board development, and coordination between child care, agencies and school programs.

This organization was formed in response to the need to provide a forum for discussion and response to issues and to act as an advocacy body to promote the interests of school-based child care.

We believe the provincial policy and funding initiatives related to child care in schools require examination and change. Our sharing of information emphasizes the fact that many boards face common problems in relation to support for child care in schools.

We were pleased to get your invitation to be here this afternoon to comment on the proposed amendments to the Education Act. We specifically are responding, though, to paragraph 49 under section 29 about day nurseries, which states that boards may "establish, operate and maintain day nurseries within the meaning of the Day Nurseries Act, subject to that act."

In recognition of the brief time permitted to obtain an Ontario-based response, we were able to receive comments from association members in 19 boards of education including urban, rural, public, separate and French boards. The general position of the members surveyed was a qualified yes to the proposed enabling legislation. The qualified component is based on the following issues, however, that need to be addressed.

The major one is funding. School boards must be guaranteed operational dollars to transfer responsibility, to establish, to operate, maintain child care centres; major and minor capital, that's involved; subsidies that would be needed.

In reference to subsidies, we have a question that we would like an answer to, if that's possible. If this legislation is passed, would school boards be able to receive approved corporation status to flow the assistance to high-risk/special-needs areas? An example would be the supporting secondary school students.

The consensus appears to be that no education dollars be used to support the establishment and maintenance of in-school child care facilities. We suggest that a system be put in place for all boards of education to receive grants to provide complete financial stability to child care centres in schools.

Operating a child care program raises issues around staffing, collective agreements, pay equity, job security, educational requirements.

Space is another common concern. Many school boards are facing serious shortages of space. At the same time, there are over 1,100 child care programs located in schools, representing one third of the total licensed child

care system in Ontario. Exclusive-use child care space in new school sites is permanently designated for that purpose. However, child care programs located in space that is required for educational programs have no permanence.

There is a need to establish a stability of tenure for these programs. Child care should be considered a legitimate use of school space and result in a modification to a school's rated capacity. Provincial capital funding should be provided to school boards to expand space where necessary to meet both classroom and child care needs.

There is a need to review the physical space and site regulations for school-age child care in order to minimize the differences in physical standards requirements between schools and child care programs.

The issue of quality: We believe it is essential that standards be maintained to ensure quality and variety of programs that are required for school-aged children.

Maintaining partnerships: There must be a stronger and clearer partnership between the Ministry of Education and Training and the Ministry of Community and Social Services. Parents must maintain their role as decision partners in the operation of child care facilities.

Beyond the qualified yes, some major potential advantages were recognized. We believe that this enabling legislation would promote and strengthen education-child care-community partnerships; encourage coordination of child care and school programs; enable more effective use of space and resources; provide consistencies of program and support the needs of children, especially those 3 to 6; remove a barrier to active participation on the part of school boards which wish to hold licences; and facilitate establishment of child care facilities where no outside agencies or operators are able to provide this service.

In conclusion, the Ontario Association for Child Care in Education members believe that for the boards of education which may wish to hold child care licences, the long-term benefits would outweigh the short-term obstacles and necessary adjustments. The positive aspects of child care programs should be merged with the positive qualities of school programs to ensure that children receive continuous, consistent and high-quality programming. School boards, however, cannot currently accept any additional responsibility without the necessary supports.

The Vice-Chair: Thank you for your presentation. One question per caucus.

Mrs O'Neill: This is an excellent brief because it gets right to the point. I'd like to ask you if you have any idea how many boards are seeking licences or would be amenable. I do know of some myself. Would you have an update on those figures?

Mrs Sterling: We were basically given a day or two

to arrive at this type of conclusion. Out of the 19 boards, the definite answers that we received with no qualification were four. The others were a qualified yes, and in fact it was interesting that out of those, only two currently do not have child care policies in place.

Mrs O'Neill: I'd like to place, if I may, the question that Ms Sterling brought. If I may ask the parliamentary assistant to answer the question that's placed in this brief, because I think it's a very important one, certainly one that's of great importance in my community: Would the boards of education be able to receive approved corporation status to flow fee assistance to high-risk/special-needs areas?

The example given was the one I brought to the House the other day to support sites and secondary schools for young mothers and/or fathers trying to gain an education and, at the same time, look after their children responsibly. Can you give us an answer to that at this moment, Mr Martin?

Mr Martin: No, I can't, but I'll certainly get it for you.

Mrs O'Neill: All right. Then I will take it upon myself to hand you the answer I get from the minister. The example I cite is the one you're thinking of, too.

Mrs Sterling: Yes, that would be one of the major concerns, in addition to the other needy families that require it.

The Vice-Chair: The question is noted.

Mrs Cunningham: It will be an interesting answer; for a public institution to get the approved corporation status would be very interesting in law.

Mrs Sterling: The other question that would come to mind: If that is a yes, a positive answer, under the current situation, there's 20% that the approved corporation or the municipality in our Metro area contributes to that subsidy system, and where would the 20%, if that same procedure were in place, come from?

Mrs Cunningham: And without the approved corporation status, does this then mean that these young people attending the child care programs in schools that are operated by school boards for lack of a parent group to do so or a non-profit group to do so would not be eligible for subsidy without the approved corporation status? Is that how it works?

1710

Mrs Sterling: At the moment they are assessed individually according to their particular situation. In fact, the subsidy is tied to the individual and the individual takes that subsidy contract to whatever centre he or she wishes to apply it. Whether that would change or not, the whole issue of the parental fee, whether that would still be in fact in place, who would collect it, how would that apply, there are many, many questions, but unfortunately given the time—we recognized your time—we did not want to get into many of the details.

We were really referring specifically to that enabling legislation line. I must state that it's not saying a qualified yes without concerns.

The Vice-Chair: Is there another question?

Mrs Cunningham: No. I just want to make a comment in response. I'm certainly pleased to see you here today with your expertise. My great concern is that it's a good idea, and certainly one wants to use the space that's been provided, but I'm sure you've already figured out that you've had little or no time to even get your questions on paper. Secondly, I can assure you this government hasn't thought this one through, but that's not unusual.

The Vice-Chair: Thank you for your presentation. We appreciate your coming forward.

TORONTO BOARD OF EDUCATION

The Vice-Chair: The next deputation is from the Toronto Board of Education. Welcome. Introduce yourself and proceed with your presentation. Hopefully, there'll be time for questions.

Ms Janet Davis: My name is Janet Davis. I'm a child care program adviser at the Toronto Board of Education. I'd like to pass on regrets from trustee John Doherty, who chairs the child care reference council at the Toronto board. At the last minute he was unable to attend.

The Toronto Board of Education has supported child care in its schools for a very long time. We have, through a variety of policy initiatives, encouraged the development of child care in schools so that now we have close to 100 child care centres located in about 77 schools. We have a range of services from infant-toddler child care to school-aged child care, half-day nursery programs, programs specifically for adult students with children, teen mothers.

The policy under which child care was initiated at the board was called the coordination of comprehensive care for children. That policy originally established the notion of a continuum of care and education in the child care setting. We have built on that policy foundation since 1981. Again in 1988, we reviewed our policy on child care and in fact strengthened our commitment to child care. Our child care centres occupy space in the Toronto board essentially free of charge. We have free occupancy costs: heat, light, maintenance, caretaking, plus a range of supports and services.

We have also developed a policy as a result of provincial initiatives, primarily in the most recent years: Early Years, and the Child Care Reform: Setting the Stage document that was released by the Ministry of Community and Social Services.

Generally, the Toronto Board of Education is committed to the establishment of a publicly funded child care system for all those who need and want it as a long-term goal. We also recognize that the jurisdiction,

management, service delivery, funding and local governance of child care does need to be reviewed and reformed. We support, as a long-term goal, the establishment of a combined ministry responsible for education and child care that would provide programs for children from infancy to graduation. That is a long-range goal.

In the short run, however, the board has recognized the need for some interim measures to ensure the continued operation of child care in schools and to strengthen our support for those programs. We have supported boards being child care licence holders. We support strengthened collaboration between MCSS and the Ministry of Education and Training. We think there need to be legislation, policy and funding changes to provide capital funding for new and renovated facilities, permanent, secure space for child care, operational funds to support programs and to provide support for more collaborative and integrated approaches for early childhood education and for other school and child care programs. We believe there does need to be a reform of the funding mechanisms to ensure stable base funding of programs and to enhance the quality of programs, and we also believe there needs to be enhanced access and affordability for families.

We are anticipating the outcome of the Early Years and the Child Care Reform consultation and look forward to reviewing our child care policies as a result of your policy initiatives. We have established a committee called the seamless day committee, which has put together a proposal and submitted a proposal to the health innovation fund. It wasn't funded. However, we are looking at a very innovative, integrated model of child care in education and we're hoping to pursue developing that model further.

We've also established in Metro Toronto at the Metro board a new committee on child care in education specifically to look at child care issues. The Metro children's services division is implementing policy that has impact on school boards and child care in school boards and so we believe there's a need to have a voice at the Metro level with respect to child care in schools, particularly around renovations, and also the Metro policy to move towards phasing out school-aged child care and transferring responsibility to school boards. Metro children's services has not moved to implement those recommendations but they are indeed still the policy of Metro Toronto.

We are involved, as well, in consultation with the Ministry of Community and Social Services, part of its management plan, and Metro children's services community advisory committee.

In general, the Toronto board supports the proposed policy directions that are contained in Child Care Reform, but we are unclear about the scope and the speed of reform and particularly what role boards of education will have in child care in the future.

We were somewhat surprised to see Bill 4 with the licence-holding provision isolated from the entire policy initiatives; however, we still support the enabling legislation. We believe school boards should be allowed, however—not mandated—to undertake a new role in the provision of child care services, but it should be part of a broader, holistic, rational policy process.

The Toronto board, as all other boards in Metro, is concerned about the potential offloading of child care services on to the local tax base and we hope that the policy changes to allow school boards to operate child care will not result in any transferring of the funding responsibilities for child care to the local level.

1720

We have not as a board developed a policy with specific recommendations to government about the actual intricacies of licence holding; however, we have had preliminary discussions. We conducted a survey in the winter of 1988 in which we surveyed all the child care centres located in the board and asked about a number of long-term options, licence holding being one of them. So we have had some discussions. Outlined here are a number of issues that we've identified, both positive and negative, that we perceive with respect to licence holding for boards of education.

Clearly, we see the ability of our board to operate child care centres in areas where we have difficulty in sustaining; a day nursery corporation would be a tremendous benefit. We have had to move into situations, provide financial support, administrative support, professional support, such as accounting services and legal services, in order to resolve what have been tremendously difficult management problems. So in those communities where we see it's difficult to sustain a non-profit corporation, we probably would like to have the ability to operate a child care.

We probably would consider operating those that serve student parents.

We see it as a benefit to us to enable us to have a greater control in implementing the philosophy and curriculum policies of the early childhood education department. We definitely want to look at some new, innovative models of delivering child care and education, particularly in kindergarten programs and also looking at lunch and after-school programs. We do want to look at new staffing models and team approaches that combine child care staff, early childhood educators, teachers and other staff who are currently employees of the board of education. We believe we can strengthen home-school communication and enhance early identification of exceptionalities. There may be greater possibilities for sharing space and facilities to solve our current space problems. I think we would like to enhance our role in the planning of child care and other children's services and believe that being an active deliverer of child care services will do that.

However, we do have concerns, and they have been expressed by the prior deputation. We are, and the politicians in particular are—we all are—concerned about the possible additional burden on the local property tax base.

The cost implications of pay equity: We know that the cost of child care is primarily staffing costs, 85%, and if the funding of pay equity is not entirely provincially funded, we probably will see increases in both parent fees and costs to the operators.

We're concerned about complexity and conflict that may result as a result of dual regulations, both under the Day Nurseries Act and the Education Act.

We are concerned that our role could be restricted by the current municipal role. Their funding priorities, their ability to exercise discretion in determining eligibility, their application of fee policies and so on, could—and will, and does—impact on the centres currently in our schools. If we were to operate child care, we would want to look at a new relationship directly with the province that may allow us to bypass the municipal role.

The operation of child care may increase space problems; it may resolve them. We would have to see what the demand would be in terms of provision of services.

There is some concern. Principals currently are on the boards of directors of all of our child care centres, and there is a concern expressed that principals will be incurring greater liability as administrators if they have responsibilities for child care as well.

But we do believe that these are not insurmountable difficulties, and I think the province of Ontario could certainly provide the kinds of supports and incentives to encourage school boards to move into the operating of child care centres.

We believe there should be policy and incentive funding to school boards. There must definitely be stable operational funding that reflects the actual cost of care, including pay equity costs. We would need capital funding for renovations and rebuilding. Currently the Toronto Board of Education cannot access capital funds from either the Ministry of Education or the Ministry of Community and Social Services for any renovations that cost more than \$55,000, and many of them cost more than \$55,000. So the current inequity in capital funding means that the Toronto Board of Education really is left out in the cold in terms of child care capital costs.

We would also, I think, like to look at the issue of boards being approved corporations and the possibility of establishing a new funding mechanism, preferably a 100% funding mechanism with 100% provincial dollars. We would look at wanting some flexibility in terms of the enforcement of regulations and we would be very excited to look at establishing pilot projects for integrated service delivery.

We would like to encourage the province of Ontario

to move ahead with reform of child care policy and policy with respect to early childhood education, and we do believe that school boards will play an important role in the delivery of child care in the future.

Mr Beer: Thank you very much for the document and for a lot of very specific thoughts and ideas around school boards and child care, because it really isn't something where we've had a broad public discussion and debate. I guess one of the concerns that some have expressed, and you speak to that as well, is, what does this one simple amendment in Bill 4 mean or foresee in terms of other or broader responsibilities for the education system with respect to child care?

One of the things I just wanted to ask you about is, in terms of the Toronto board, you're saying that you'd like the provincial government, and I'm quoting, "to move ahead with policy initiatives in this area." It's my understanding that the interministerial committee on children's services that is headed by Carola Lane, the assistant deputy minister of education—that there was a secretariat that was supporting that body and that in fact that secretariat has been closed down.

It would seem to me, therefore, there is no specific place within the government that in fact is doing the kind of work that you're speaking to. Where do you see the locus for developing these policy considerations around child care? Where is that happening? Who is it that boards talk to about what Comsoc is doing, what Education is doing? I think there are four or five ministries that are involved with the interministerial committee, but it seems to me that in order to answer the questions you have here and others, there really is a need for some locus there, and I don't see that anywhere, with this secretariat being disbanded.

Ms Davis: No. We get most of our information about child care policy through a number of committees locally, actually. There is the Metro child care and education committee. We have a regular meeting of employees who work at boards of education who have responsibility for child care. We meet regularly with representatives from MCSS, the Ministry of Education and Metro quarterly, so we do get updated. We have participated in consultations that are consultations available to everyone, but there is not specifically any forum to deal with child care and education issues, no.

Mr Beer: If I might, there was a cabinet document that was leaked or somehow appeared.

Ms Davis: I actually haven't seen it. I'm the only one around, I think, who hasn't.

Mr Beer: In terms of some of the options that were put forward around how child care might be dealt with, they talked about giving it to the Ministry of Education and leaving it with Comsoc. There was also a proposal, and I can't remember the exact title but which would have essentially established another body to deal with

early childhood education. I realize you haven't seen that, but you make some proposals here for developing a policy, and I just wondered, from the Toronto board's perspective, if you could, where do you want that to happen? How do you see that happening in terms of ensuring that all of the different interests are brought to bear? The point of my question is that there seems to be a policy vacuum in terms of who is leading the broader public discussions.

1730

Ms Davis: It's my understanding, though, that there's ongoing collaboration between the education outreach branch of the Ministry of Education and Training and the child care branch of the Ministry of Community and Social Services. They are working jointly to develop this policy. How interministerial this work is, I don't know.

We did discuss, when we were developing our response to the child care reform paper, how broadly we thought the interministerial collaboration should be, should we have a ministry of the child which took into consideration health, recreation, all of the other ministries that had responsibility for children, and after great debate decided that in fact we wouldn't support that model, that it would probably be impossible to establish, for one thing, but secondly, we saw there was a need to simply take child care out of the social service context and put it into education and to call it a ministry of child care and education to recognize the equal partnership of those particular programs.

We also did, however, recommend a children's directorate, which was to be an interim agency that would facilitate the long-term development of a totally integrated ministry.

Mrs Cunningham: Thank you for certainly a well-thought-out brief. I like the way that you've talked about the potential benefits and the positive-negative views, and you've raised a lot of questions that a lot of us have been struggling with for a long time.

I was originally going to ask you yourself, what would you recommend to a parent of a three-year-old? Would you recommend that they go to a child care program operated by the Toronto board or a preschool program operated by the Toronto board?

Ms Davis: Hopefully you wouldn't see a difference between a child care program and a kindergarten program operated by the Toronto board.

Mrs Cunningham: They would be the same?

Ms Davis: If we were to operate programs, we would be looking to implement high-quality early childhood education in a way that was beneficial to children. That means establishing programs that offer a range of child-centred activities, age-appropriate activities, that are put together in a way that serves the needs of children who are needing care and education from early morning to the end of the day.

We believe that good-quality early childhood education in either setting is possible and we want to look at ways that we can combine those, but not in every school. I'm not suggesting that the board would be prepared to enter into, in the short run certainly, a total seamless day model. I think that what we would want to do is initially undertake some pilot projects in those schools that are wanting to look at an innovative model. I think we would probably look at operating programs in communities that are having difficulty running child care and those for student parents, but they would definitely be selective and we would want to be assured that the concerns we've raised here were addressed, particularly around funding.

Mrs Cunningham: I think the reason for the legislation is that some school boards have empty spaces that were meant for child care programs but they can't get the parent boards to get them going. Is that true anywhere in Toronto?

Ms Davis: At this point we are not establishing parent boards to the degree we were because our schools are all full. The demand for child care, though, continues. We have, as I said, close to 100 centres, many of them still wanting to expand. We could probably double the amount of child care in schools if we had space.

Mrs Cunningham: Would most of the students or young people be right now eligible for a subsidy?

Ms Davis: No. I shouldn't say that. I take that back. I cannot say definitively. I believe that close to 40% are currently subsidized.

Mrs Cunningham: So you do have a number of fee-paying parents for the child care centres in the schools right now.

Ms Davis: Yes.

Mrs Cunningham: I just wanted to hear from you with regard to the reasoning. I think I'm right in that regard. It's really an operational need at this point in time, but it doesn't answer any of the questions that you've asked.

Ms Davis: No. There obviously are still some concerns we would have about ensuring our funding.

Mrs Cunningham: I can assure you that you're absolutely right about the principles.

Ms Carter: I think this is more comment than question. I'd just like to commend you for your brief. It seems to me there are a lot of very progressive ideas there and it's fairly plain that the problem is funding. I see where you've listed the things that the province of Ontario could do. You've got six points and four of them are just straight money. As you know, that is our problem as well as everybody else's at the moment. The money just isn't there and we are having to cut back.

However, I think I would agree probably with you and others that expenditure that is going to children and helping them to grow up in as fulfilling a way as

possible is money that is very worthwhile and is going to probably save expenditures down the road when things go wrong that probably would cost society more.

You mentioned the idea of a children's directorate. I just wondered if you'd like to expand on that and what it might do.

Ms Davis: We had originally conceived that there was a need for joint planning among services and agencies both at the local level and at the provincial level to ensure a rational approach to government policy on child care. There currently, certainly at the local level, is a range of providers of a range of services. What we envisioned with the children's directorate was a central agency within government that would facilitate the overall policy direction of government in terms of children as a transitional structure until child care was established as part of education.

It wasn't developed fully. The majority of the members of the committee who developed the response were still interested in ensuring that we discuss the collaboration of programs and agencies.

I wonder if I could make a comment about funding. I don't want it to be perceived that we see additional funding as absolutely necessary to enable us to operate child care. That's not the case. Currently, most of our programs are funded through subsidies and fees and many of them are quite stable. Those programs would continue to have the same level of funding that they're currently receiving. So were we not to have any reformed mechanism such as base funding or something similar to an approved corporation status where we were operationally funded, it still would not inhibit our ability to operate a child care centre.

I do believe that many of our centres are funded in a way that makes them financially viable. The majority of our centres are financially viable operations currently. What could potentially make them not financially viable is the cost of care if pay equity were to apply and no provincial dollars were available to implement pay equity. It's the possible escalation of the costs as a result of pay equity and potentially the administration costs that would be borne no longer by volunteer boards of directors but by paid staff of the board of education. So some of the education administration costs could escalate as well.

1740

The Vice-Chair: Thank you for your presentation.

The next presentation will be by the Ontario Association of the Deaf. Please come forward.

Mr Hope: When would you like to complete the business that I put forward earlier?

The Vice-Chair: At what time?

Mr Hope: Yes. After this presentation?

The Vice-Chair: Yes. Oh, we'll discuss the other point you make, for clarification.

ONTARIO ASSOCIATION OF THE DEAF

Mr Donald Prong: I want to make sure that the two of us stand. Unfortunately if we sit, it will be difficult to see our signs. I'd like to introduce, first, Dave Mason.

Mr Dave Mason: Thank you for inviting us. My name is Dave Mason. I'm a professor at York University in the teacher training program. That program was established three years ago, and I joined in 1991.

I want to briefly explain the interpreting process. The interpreters are here to receive my American sign language, and then they will translate that into spoken English. Then if anyone speaks to us, they will translate that into ASL. Okay? I just wanted to clarify the process.

The reason we have come today is that we hope that the government of Ontario will pass Bill 4 in order to authorize the use of ASL, American sign language, as the language of instruction. That is our goal. That authorization is important because it means a recognition that is necessary for many thousands of deaf people, not only in Ontario but in North America as well. So we see this as a very important issue for us.

I should probably begin by defining ASL. American sign language is the language of the deaf. You may have seen deaf people on the street, at various events, using sign language, and that is ASL. There is no doubt that that is the language they are using. If you go to Quebec, you may see a similar thing happening. You will see a group of deaf individuals signing and the language that they are using is LSQ or the language of Quebec, langue des signes québécoise.

If you visit another country in the world, you will see another language. For example, in Britain they have their own sign language. Venezuela has its own sign language. So sign languages exist all over the world.

Our sign language is not universal, but one thing that is common among all of the sign languages in the world is that they are distinct languages, distinct from the languages that are spoken in those countries.

ASL is not a language that follows English. It is a distinct language, and if I could show you one simple example, I could sign like this: "Do you want to have some water?" In ASL, "Do you want some water?" The language is incorporating the facial expression. What you see on my face is grammatical in content, it indicates a question, and you can see that it is very effective, as opposed to an attempt to sign something in English. There is a lot of time wasted and difficulties in producing something in English versus producing something in ASL.

You may also be wondering about deaf adults, whether they use English. Yes, we do use English. I read and write. I am a bilingual person. My languages are ASL and English. My speech is horrendous. The English that I use is printed English. With my two languages I

am able to interact with people.

I'd like to explain a little bit about the history of sign language. I think that would help to clarify some issues. In 1880 there was a conference in Milan, Italy. Numerous educators from around the world attended. As a result of their discussions, they voted and passed that sign languages, ASL or whatever country, would not be permitted, that within the educational system the only method for education would be oral. That had worldwide impact.

After 1880 we saw many deaf individuals lose their jobs because they were unable to teach using the oral method. This trend continued for many, many years and then in the 1960s an individual by the name of Stokoe began research on American sign language and that research verified that ASL is in fact the true language of the deaf, that it is a distinct language. That was a very important point in our history and has had an incredible impact on the lives of deaf people. Until that time, deaf people felt inferior and embarrassed about their language. They were oppressed. They equated their intelligence with the English language. They experienced an incredible amount of oppression.

So we saw the research happening in 1960 and then in the 1970s and 1980s we saw further changes. Individuals were encouraging the use of sign systems in education. But there is no proof behind that. What we're starting to see is some research that indicates that bilingual education, ASL and English, is critical. My thesis was on bilingualism. I studied individuals who had experienced bilingualism.

I'd also like to share with you that all deaf adults whom you see have experienced oral education, at least for the first few years, if not for many years. However, upon completion of education, you are seeing deaf adults using their language. They do not continue to use their speech throughout their life. Some individuals are able to use some residual hearing, and that's fine, but traditionally the oral method has been forced on deaf individuals. ASL has been kept out of the classrooms.

1750

As a result of this educational system that's existed for many years, we haven't seen deaf adults succeed. What we need is the authority, the recognition to permit ASL in the school system, and that authorization has to exist from preschool onward. As you see, as I'm presenting to you, I have interpreters and I'm able to use ASL, but the ability to use ASL, the language of the deaf, should be a right for all deaf individuals. They should be able to have the freedom to communicate.

I have to warn you there's a lot of resistance to this idea, to using ASL. That resistance does not come from deaf people but from hearing professionals, and it has typically been hearing professionals who have that resistance. I'm not sure entirely why. You perhaps have received some negative comments, but I can assure you

those negative comments would not be from deaf individuals. The resistance could be for a number of reasons. I personally feel it may be a power issue.

My personal professional opinion is that it's necessary to have two languages that are on a par with each other. There has to be equality between the two languages and not one be superior or inferior to the other, and that's critical for deaf individuals, to be able to learn ASL and consequently to be able to learn English, and to learn that English in a much easier fashion than they've traditionally experienced.

A lot of parents have avoided this, avoided ASL, and I believe that this is a fear of the unknown. They really don't have knowledge: knowledge that they need to have. They need to learn ASL and to be able to communicate in order that deaf individuals or their children can become bilingual.

If this legislation is passed, I foresee a much brighter future. I also want to tell you that many deaf adults are very angry, because many opportunities have been closed to them. I believe, with the recognition of ASL that this legislation would achieve, there would in fact be a brighter future, that those doors would open, and do hope that you will support this bill.

I want you also to remember that this does not mean that English will become inferior. The students will learn English, of course; they must learn English.

I think I'll stop now and turn this over to Donald.

Mr Prong: Good afternoon. My name is Donald Prong and I'm working as a vocational rehabilitation services counsellor in the Toronto region. I've been deaf since birth and I've gone through a lot of different systems in the education system. I went to different schools, and as I've gone through the school system over the years, the philosophy has changed dramatically.

When I was five and I first entered the school for the deaf in Milton I was forced to learn to use residual hearing and to lip-read what my teachers were saying. Often in that situation I wondered what was going on and I felt that the learning process for me was very slowed down or delayed. People often said to me I had wonderful speech and I was quite successful in that, and later I went out into the real world and I would talk to people, for example, cashiers, and they would never understand what I was saying to them. In terms of my self-esteem and my pride, that was quite damaging, and it really hurt the confidence that I had in living in the world.

Later on my school system changed and they used finger spelling, and if you can imagine sitting in class watching somebody finger-spell each word they say in an area that's about this big, all day long, for six, seven or eight hours, children would fall asleep, and it certainly wasn't a good system that worked for us.

Later on the school system changed again and we had

signed English. Signed English was something that most of us didn't understand at all and we spent most of our time ignoring what the teacher was saying. We were trying to learn English through an English sign system. We tried, but it was quite difficult for us. I relied on my siblings, who taught me with American sign language, my first language, how to read and write in English. It was by using ASL that I developed my literacy skills.

I went to Gallaudet University after high school, and I was accepted after just barely passing the entrance exam for English. At Gallaudet University they use American sign language. They use pure ASL when they are teaching. I learned so much from that experience. That was a wonderful time for me, and my literacy skills in English improved dramatically.

Eventually I graduated with a BA in social work and right now, as I said, I'm working as a VRS counsellor. I'm close to a lot of high school graduates now who come to me, and I've noticed there are two groups: the mainstream students and the ones who have gone through schools for the deaf. I've seen that many students have gone through this whole argument about which school system is better, the schools for the deaf or the mainstream setting. I think the results of that are really the same.

If we look at how those students do and how they accomplish things, I would like to suggest that there is a lack of a development of their first language and a lack of other skills that they need; also a lack of their English skills, even if it's an oral program that focuses on English. If we look at the schools for the deaf, people sign, but they still use total communication philosophy or a signed English system, and these things don't really benefit the children.

I remember trying to use total communication, and for myself, as a deaf adult, it was very difficult. I had a really horrendous experience in a math class years ago in high school. The teacher was giving me a large math problem that they had explained on the board and they wanted me to come up with the solution. They were using total communication. I tried to sign the answers to the teacher and the teacher said, "You're wrong, that's absolutely wrong." I felt really frustrated. I tried working on the problem again, I gave the answer and the teacher again corrected me and said that was wrong and not the answer. So I went back and worked on the numbers, and the fourth time I stared to realize that my first answer had been correct except that I didn't use my voice when I was signing and the teacher didn't understand me. If I had done that the teacher would have said, "Your answer is correct," but because I didn't use my voice—I didn't trust my voice, I just signed—they wouldn't accept my answer. That really damaged my self-esteem.

I think if they would have used American sign language with me, that would have been much more beneficial and those things wouldn't have happened to

me and to other children. I think the school system has to start respecting and recognizing that it's important for deaf children to do that. Some kids are comfortable speaking in English or in French or whatever, and that's fine, but I think we should also look at kids who aren't comfortable using a spoken language who want to use American sign language and allow that. I would like to say I'm not the only person who feels that. Many deaf adults like myself agree with that philosophy, and I'm hoping that Bill 4 will pass and that you will change the education system for the children going through it right now. I hope that you agree with that.

As I said, I went to Gallaudet University for several years and I met a lot of the students who have come from what I call deaf families or from other schools, for example the Indiana state school for the deaf. That school was a wonderful opportunity for those children. There were a lot of role models for them and the reason for that is because more than 50% of their educators were deaf. The result of that was that students who graduated had wonderful English skills, wonderful literacy skills, and their education was incomparable to other students'. They were certainly on par with hearing children. They did wonderfully at Gallaudet, and I was really impressed with them.

I noticed that even in Ontario children from provincial schools or in mainstream settings, if they have deaf role models, for example deaf parents, they tend to have more ability in the education setting, especially in written and printed English. I think the reason for that is because they have developed a first language, American sign language, that they can draw upon when learning a second language. Also, they've had a chance to look at role models, deaf adults, in the school setting.

That's the end of my presentation. I'd like to thank you for inviting me.

The Vice-Chair: Thank you for your presentation. We deeply appreciate it. It was very informative. Are there any questions at this time?

Mr Beer: I'll be very short, but I have not so much a question but a comment. I want to appreciate your presentation. I think over the course of the last couple of years we've heard in a number of settings the arguments around ASL. I can recall in the Legislature, when the original private member's bill came forward—and just to say that we support the provision in Bill 4.

1800

I think you recognized that Bill 4 is what is called an omnibus bill. There are other provisions having absolutely nothing to do with American sign language with which we and the third party have very strong reservations. We don't have any problem with the provision around American sign language. We would like to indicate that support, although we are not able to support the bill.

Quite frankly, we wish that a number of the elements of Bill 4 would be taken apart so that we could deal with the more controversial issues. But I just want to make very clear that we do support the direction in which the education system is moving with respect to ASL and that ASL should be a language of instruction. That will obviously be something that will be very helpful to the students in Ontario.

Mr Hope: All that I'd like to say is that I'd like to thank you both for taking the opportunity of coming today and making the presentation. I notice you used the word "literacy," which is very important on a number of fronts. I would just compliment you for your presentation. I'm sure we can move very quickly on this legislation and get it in place as soon as possible.

Mr Jim Wilson: I wanted to also thank you for your presentation and really reiterate what Mr Beer has already said, that it is unfortunate that the ASL provision is contained in this omnibus bill, because there are many other provisions that the Ontario PC Party is having difficulty with. However, I assure you of our support for ASL.

Perhaps as a result of your presentation and of the hearings to date, we can make some accommodation with the government to make sure that the particular provisions in the bill that you speak of and that we're supportive of indeed become the law of the land. So we will work on your behalf to do that.

The Vice-Chair: Again, thank you for your presentation. Your request is certainly noted.

Mrs O'Neill: Mr Chairman, in conjunction with that presentation, has the parliamentary assistant been able to get me the information I requested regarding clarification of this section of Bill 4, particularly the section regarding "where numbers warrant" and the possibility for choice?

The Vice-Chair: Mr Martin, can you respond at this time?

Mr Martin: There are things being prepared. We propose to bring them forward when they're completed and ready to present.

Mrs O'Neill: Will they be completed before we have to do clause-by-clause of this bill?

Mr Martin: Yes.

COMMITTEE MEETINGS

The Vice-Chair: A point of clarification on the future meetings of the committee: Would the clerk advise what we have decided previously as to meetings?

Clerk pro tem (Ms Donna Pajeska): Earlier today, after the first witness, the committee discussed whether or not it would hold another day for hearings. It was agreed that next Monday, June 21, hearings be conducted and then resume clause-by-clause on June 22.

The Vice-Chair: Mr Hope, did you wish to comment?

Mr Hope: Then I guess it was pertaining to the three House leaders who had agreed to this process. By my understanding, there's really no agreement. The Conservative Party, in talking to—I guess Dianne's the critic. She says she would take longer than one day to be able to deal with the amendments. I believe we would then revert back to the original proposal, which would be to deal with clause-by-clause on Monday and clause-by-clause on Tuesday.

The Vice-Chair: We had decided to have additional hearings on Monday.

Mr Jim Wilson: I resent the implication in this comment, Mr Chairman. I hope you take the opportunity to clarify what the position of the—

The Vice-Chair: Sorry, I didn't hear.

Mr Jim Wilson: Well, he singled out the Conservative Party as somehow holding this up, but I think the committee has an agreement. I appreciate your clarification on it. I thought there was agreement to proceed with hearings on Monday.

Mr Hope: No, there wasn't.

The Vice-Chair: There was at the time this committee met earlier today. I believe it was the second or third item of business. We discussed it and there was agreement with the members present. Sorry?

Mr Hope: I was speaking on behalf of this side. I had not agreed to it until I checked in, because right after that I got up and went to check with the House leaders on direction and what was agreed upon. Unless all three parties had agreed to—presentations on Monday and finish clause-by-clause on Tuesday, is my understanding, and that, I guess, has not been put forward as an agreement.

Mr Beer: Mr Chair, my understanding in checking after discussion was that there was no specific agreement around when it would end. Because there would not be hearings this evening, we would hear from deputations on Monday; begin our clause-by-clause on Tuesday. We're probably going to be here on the 28th and the 29th, and clause-by-clause would continue, but there was no understanding that I'm aware of at the House leaders' meeting that it would end on Tuesday.

Mr Hope: There was opportunity during that debate around the agenda that was presented before to try to have evening sittings, and then the evening sittings fell through; then, to deal with Monday as a day of additional presentations and then clause-by-clause on Tuesday, and that's the time frame that I've been dealing with with the original motion as presented on those days.

Mr Beer: I just think we have to note that there is not agreement to what you suggest. What I understand, and I think what you're going to have to do, Mr Chairman, is get direction from the House leaders, have the

subcommittee meet, but that we were directed to conduct hearings on Monday and begin clause-by-clause on Tuesday.

The Vice-Chair: Is that agreed then that we will have the subcommittee meet and deal with the House leaders in this matter?

Mrs O'Neill: Mr Chairman, I think we're going to have to have it very clear, and I think at this point because this is so important, we're going to have to have in writing from the government the time line that is imposed on us. We lost a vote, we know that, and we don't have any indication of any flexibility now, even though there are people telling us they have one to two days to prepare a brief and all kinds of people wanting to come. We're being told, "No, you have this time and that's it, and use it the way you want, so if you have more hearings, we can only have one day for amendments," which is two hours on an omnibus bill which has to be precedent-setting if Mr Charlton wants to talk about precedents.

The Vice-Chair: Unfortunately, it may not be two hours, depending on when the House completes routine proceedings also. Your proposal, Mr Hope?

Mr Hope: Well, I think it's got to go back to the original proposals. I am currently dealing with the structure and the proposed agenda that has been approved by this committee and adopted which says Monday and Tuesday of next week, and that's it. Now we're saying that they want to look at extra. I'm not the House leader of the government and I don't know if the House is going to be sitting beyond its legislative schedule, so that power is outside of my jurisdiction and outside the jurisdiction of the subcommittee. So therefore, I believe that it ought to be referred back to the House leaders and the House leaders decide on the exact direction they want to give. It's not the direction of this committee; the committee has already agreed to an agenda and dates set out. If they want to change those dates, that has to be brought forward to the House leaders of all three official parties.

Mrs O'Neill: We agreed to disagree, and I don't think the subcommittee meeting—I agree with Mr Hope on that; the subcommittee meeting's not going to solve anything.

The Vice-Chair: So the proposal is, then, because we're under the direction, of course, of the House leaders as to when we can sit—

Mr Hope: We're also under a direction of a set motion that's already been adopted and times and dates that have already been agreed to by this committee. There has already been a motion put forward and we've agreed to those dates, which means that it doesn't go beyond Tuesday of next week; that was agreed upon.

Mr Beer: With respect, Mr Chair, we did not agree to those dates; they were imposed upon us. What we

have agreed to is that we would continue. The House leaders have directed that we have hearings on Monday. By all means go back to the House leaders. I think I have to indicate very clearly that there is no agreement on this side that clause-by-clause could be completed on Tuesday. The government has options at its disposal and presumably will make use of them.

The Vice-Chair: Are we in agreement, then, that the matter goes back to the House leaders?

Mr Hope: Are we in agreement to what? I've heard a lot, so specifically tell me so I'm clear on what you're directing.

The Vice-Chair: Well, very specific—

Mr Len Wood (Cochrane North): How many House leaders have they got over there? Who should be talking?

Mrs O'Neill: We all have one House leader.

Mr Beer: We all have one House leader.

Mrs O'Neill: We don't want snide remarks. We want answers.

Mr Wood: Well, that's what it sounds like.

The Vice-Chair: Please—

Mr Beer: Look, that's just silly. You, your party has made sure that there can't be proper hearings on Bill 4. You know that there are three House leaders, none of whom is here. You have, because you have the majority, the option to ensure that there is no further debate. Save your snide, smart remarks. We don't need them in here. Do I make myself clear?

Mr Hope: Mr Chair, dealing with the motion that was put forward—

The Vice-Chair: Please. We will have one speaker at a time and we'll decide what we're going to do.

Mr Hope: —so I can hear clearly what you're directing, outside of the confrontation that's there.

The Vice-Chair: Mr Hope has stated that there was a previous schedule agreed to—

Mrs O'Neill: It wasn't agreed to. It was voted on and we lost.

The Vice-Chair: Directed by the House leaders.

Mr Hope: That's right.

The Vice-Chair: Any change to that requires an agreement of the House leaders or a direction from the House leaders.

Now, the proposed schedule is clause-by-clause on

Tuesday, and the request is a request for additional time for clause-by-clause, an additional date. Because the House will quite probably be sitting—I guess that will be decided tonight, will it, whether we sit next week or not?

Mr Hope: That won't be decided tonight.

Mr Wood: No. We'll be sitting till midnight tonight, and that's all.

Mr Hope: So the power is outside our, beyond—the only means that we really have is the legislative calendar says that the committee—

Mr Beer: I agree with Mr Hope. It has to go back to the House leaders.

Mr Hope: So why should we get into a heated argument? That's why I'm trying to say.

Mr Beer: We don't need snide remarks.

Mrs O'Neill: We don't need snide remarks.

Mr Jim Wilson: The way you presented that, starting off blaming the Tories for not having agreement—you're lucky I didn't jump all over you too.

Mrs O'Neill: Then you ask us how many House leaders we have.

Mr Hope: For God's sake, I'm trying to explain something. I wasn't trying—

Mr Jim Wilson: That's your whole approach, using fear tactics. It's the way you're doing with collective bargaining now. It's what we expect from this government.

Mr Hope: But I wasn't trying to be smart about it, because I went to Mr Beer and I went to Mrs Cunningham and I proposed what was there. I wasn't trying to be smart. All I was trying to do was get clarification.

Mr Beer: I'm not saying that you were, and the proposal that it go to the House leaders is, I believe, the correct one.

Mr Hope: Give it to the House leaders.

The Vice-Chair: Thank you very much, Mr Hope. As an unbiased Chairman, I would say that there's never enough time for any subject here, of course. We're confined on everything. Thank you.

This concludes today's hearing of the standing committee on social development, holding hearings on Bill 4, An Act to amend certain Acts relating to Education. I had the final word.

The committee adjourned at 1812.

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**In attendance / présents*

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Also taking part / Autres participants et participantes:

O'Connor, Larry (Durham-York ND)

Clerk pro tem / Greffière par intérim: Pajeska, Donna

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Lundi 21 juin 1993

Standing committee on social development

Education Statute Law
Amendment Act, 1993

Comité permanent des affaires sociales

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 21 June 1993

The committee met at 1619 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Good afternoon. Welcome to the standing committee on social development, holding hearings on Bill 4, An Act to amend certain Acts relating to Education.

MIDDLESEX COUNTY BOARD OF EDUCATION

The Vice-Chair: The first presenter is the Middlesex County Board of Education. Mr Hardcastle, please introduce yourself and proceed with your presentation. Because of the shortage of time, I don't see that we will have time for questions.

Mr Gordon Hardcastle: My name is Gordon Hardcastle. I'm the chair of the junior kindergarten committee for the Middlesex County Board of Education. I'd like to thank you for this opportunity to speak to the committee today.

This presentation is made on behalf of the Middlesex County Board of Education, which serves 11,000 students and 65,000 residents of the county of Middlesex. The county used to be known as the doughnut surrounding London; now we might better be described as the icing on the cake, since we surround London on three sides; the county is 70 kilometres wide and 60 kilometres long.

The board is justifiably proud of its commitment to its students and its high quality of programs.

Although we have some reservations with other parts of Bill 4, we would like to restrict our comments to the mandatory implementation of junior kindergarten.

Junior kindergarten was studied in depth by our board in 1990 and was reviewed as recently as June 1992. In 1990 the board defeated a motion to implement JK by a vote of 9 to 7. In 1992 the board again defeated a motion to implement JK, this time by a vote of 14 to 2. In addition, in 1992 the board voted to not implement JK by a vote of 13 to 2.

We were encouraged by the decision to allow boards to request a delay in the mandatory introduction of JK from 1994 to 1997 and support that decision fully. We continue to be opposed to the mandatory implementation of JK and appreciate this opportunity to make the presentation. The reasons for this opposition are as

many and as varied as the trustees on our board, but the following represents some common themes.

(1) JK is not necessarily an appropriate program for Middlesex county. Research indicates that low-income children can derive substantial benefits from JK. However, there is no definitive proof that other children receive substantive benefit from JK. Middlesex enjoys a comfortable average income compared to the provincial average. Our county is primarily rural in nature, with many of our students coming from homes where one or both parents are home during the day. In addition, many of our communities have excellent preschool programs for those who desire them.

We do recognize that there are areas of Ontario where JK provides a significant benefit to a substantial number of children. We believe that only a small number of children in Middlesex would benefit in a significant way from JK compared to the programs, both formal and informal, to which they are currently exposed.

(2) Parents are concerned about busing young children. Most students in Middlesex are bused to school because of the long distances involved. Parts of Middlesex are in the snow belt and are also subject to heavy fog conditions at different times of the year. The rural nature of our county and the need to minimize busing costs would require us to hold all-day every-other-day JK classes. During winter months, this would mean that JK students would leave for school and come home during darkness. The thought of busing children as young as three years old through these conditions is a major concern.

(3) Our schools are already crowded. A recent analysis of our school enrolment by an independent consultant stated, "The system as a whole is going to experience overcrowding, even without the introduction of JK." The mandated introduction of JK will greatly exacerbate this problem. We would need to add 17 portables to accommodate JK classes, and some of our school sites cannot accommodate any more portables.

(4) The lack of community support: Parents have not indicated an overwhelming desire for JK. Many municipalities within the county have passed motions opposed to implementing JK. Even the London Free Press supports a need to re-evaluate school responsibilities in its editorial dated October 9, 1990, stating that, "There is no compelling evidence that such early institutionalization of children is uniformly beneficial."

(5) The cost: Our startup costs of JK would be approximately \$2 million. Our annual operating costs

would amount to \$1.4 million. Although the province is generous in its grants for JK, ultimately the total financial burden falls on the local taxpayer. Costs of this program will escalate in the future. Middlesex's costs are based on an SK maximum PTR of 26 to 1. A select committee has recommended a maximum PTR for JK of 16 to 1. Research studies indicate that to ensure quality, the PTR must be kept low and suggest ratios of no more than 10 to 1. We have not even tried to calculate the cost of such a system in Middlesex.

In conclusion, we do recognize the needs of our at-risk children. However, we believe that the broad-brush approach of mandatory junior kindergarten is not appropriate.

Accordingly, we would recommend (a) that junior kindergarten be made an optional program based on local requirements and (b) that the ministry review with school boards ways of addressing the at-risk students and providing community-based strategies to meet their needs.

Thank you very much for your attention.

The Vice-Chair: As the second presenter has not arrived, there's time for one short question per caucus.

Mr Charles Beer (York North): Thank you for your presentation and also for the recommendations. In terms of the second one, has the board thought of any particular kinds of programs? Have you looked, for example, at what Grey county has proposed doing? I mention Grey simply because of the rural nature, where it's tried to make use of existing child care programs and weave them into a system. Has the board had any opportunity to look at what those options might be?

Mr Hardcastle: The board hasn't had a chance to look at those things, but I'd be happy to comment from a personal perspective. I think we could tie into some of the excellent programs we have in a lot of the communities throughout the county, and I think we could find ways of providing some tax support to the families of those children who are really at risk and really need to get into those programs and may not do so because of the costs involved.

Mrs Margaret Marland (Mississauga South): I'm just wondering how you would have felt about Bill 4 had the ministry consulted with your board at length and asked you whether you wanted all of it or part of it. Are you concerned about the lack of consultation?

Mr Hardcastle: Consultation is always appropriate. Again as a personal observation, we felt left out in the cold in Middlesex, particularly on the JK issue.

Mrs Irene Mathysen (Middlesex): I'd like to put on the record the remarkable work that the Middlesex board does in terms of its integration of students and working to serve hard-to-serve students, with limited resources over a period of years. They have created miracles, and we thank them for it.

Some of the members mightn't know, but there's also a separate board that operates in London and in Middlesex county. Do they offer JK, have they discussed their programming with you and have they determined what difficulties they may have encountered?

Mr Hardcastle: The separate board does offer JK throughout its system, both in London and Middlesex. We have not had extensive discussions with them in terms of their JK program.

Mrs Mathysen: So it is there in the county if parents would like to access it.

Mr Hardcastle: For those who wish to, yes.

The Vice-Chair: Thank you very much, and we hope you make your meeting back in Middlesex county.

1630

ASSOCIATION FOR BRIGHT CHILDREN OF ONTARIO

The Vice-Chair: We'll move on to the next presenter, the Association for Bright Children of Ontario. Welcome. Introduce yourself, please, and proceed.

Mrs Margaret Walker: Thank you very much for the opportunity to be here. My name is Margaret Walker and I am a past president of the Association for Bright Children of Ontario. My current title is advocate for children, and I take that position quite seriously.

I'm pleased to be here again. I was here on June 7, as we began these proceedings, as a member of the minister's advisory council on special education. It is always a pleasure to have the opportunity to dialogue with members of the House.

On June 7 when we were here, Mr Martin was making some introductory comments about the legislation and things that were happening. It may be that I'm slightly sensitive to it, but I'm not sure that I recall him talking about gifted children among the exceptional. It may just have been an oversight, but we are sensitive in our organization that very often when we're talking about exceptional children, gifted children are not always included.

Our association is the voice for bright and gifted pupils within the province. The number of calls we are receiving has doubled in the last year; our membership is rising significantly. I think it's important for you to know and for all of us to remember that we have about 33,000 students in the province who are identified as gifted. It's the second-largest category of exceptionality.

As a parent group, we are there to support the parents of these children and to advocate for their needs, my reason for being here today. We have parents who call who have young children ready to go into the system and they're concerned about issues. We as an association are certainly supportive of the publicly funded boards and do want to direct the parents in that way. Our concern is that there are many parents out there who are looking to us for options in private school. Our

answer to them of course is that, "If you're looking, you look in the same way you would at a publicly funded school board." But we want to ensure that programs are there for all exceptional children in our publicly funded system.

Right now, many of the parents who are coming to us are very concerned about special education in Ontario. There seems to be a state of confusion and contradiction. I know we've dialogued with a number of people around this, but there's a lack of compliance out there by some of the boards in terms of the opportunities and options available for our exceptional children. We really believe there is a need to maintain that range of placement options. In our dialoguing with Gary Malkowski we have talked about that and are very assured by his concerns and issues to have some of those options available for students.

We believe there continues to be a need for guaranteed access for special education programs and services in the province, and that of course must include the identification of our children. The member for Middlesex talked about integration of students. That's extremely important and it leads me into what I want to talk about in the bill.

I always like to come and have an opportunity to dialogue around other things as well, but the integration policy is an important one for some of those students, for that small number, the 5,000 to 6,000 students who have never had an opportunity for regular class placement. I looked back in my notes. In June 1986 we responded, taking a look at amendments to the Education Act; our association supported at that time the removal of the terminology "trainable retarded," both as a term and as a separate category of exceptionality. We're very pleased that this bill does include that it will be taken out as a separate category and that those exceptional children will have the opportunity for regular class placement as well. Our concern is that in doing that there are some boards that are really ignoring and denying some other students who need some different opportunities, some of those options. That is a concern we have.

In terms of Bill 84, taking away the hard-to-serve, we see it in some ways as another one of those things that is there and we are almost dismantling some of the good things and very excellent things we've had in the province in terms of special education. We're trying to figure out where in the Ministry of Education structural document that's out special education lies or will lie. We will be responding and making comments on that, as is our wont to do.

With regard to the hard-to-serve, and that's the main thing I want to talk about—it's in the printed submission you have before you—we would really support the retention of the hard-to-serve, mostly because it is safety net for a very few students, as I know you've

heard here, but I also understand that you have heard from the parents of some of those students who are working and needing something different for their children.

I have spoken to some of those parents whose children are extremely gifted but have some very specific learning disabilities. Sometimes the discrepancy in their scores on intelligence tests is so vast and so broad that it's very difficult to know what to do with them. The boards have difficulty doing it. Certainly the parents know there's something else that needs to happen. We believe that discrepancy in the scores and other things means there is a very definite need to maintain the hard-to-serve.

I noted in one of Ms Lindhout's memos that there was an indication that in the medical treatment aspect, where the educational component would be paid for out of province and perhaps even out of the country, there might be up to 10 students per year in that category. The unfortunate thing is that the needs of the hard-to-serve students could not at this current time be met under that category. It's certainly a concern we have.

The other issue you'll note there is the concern about making the legislation retroactive. Just what will happen to those students, not only those students for whom the program has been in place in 1992-93 but for any students who may have been identified since June 1992 for that sort of thing? What will happen to them in the future? That is a concern we have.

One other comment I have been asked to make—it isn't in the presentation—from our association is in terms of JK and day care within the school systems and the reality of that. There are a few boards, and only a few right now, which do not have the JK program. But we are concerned that, wherever JK and if day care does become part of what boards are more involved in, the early identification of students' needs is looked at very thoroughly at that time.

It is a concern and an issue that sometimes, when children come to junior kindergarten, if there is a physical disability that's seen, those children are very quickly identified. Sometimes for those parents, inappropriate segregation is offered to them rather than the default, if you want to put it that way, placement in a regular junior kindergarten. For some of our children, there is a need for their strengths to be seen and to have dialogue with parents about why these children are reading. Usually our gifted kids who come to school reading are not reading because the parents have flashcarded them to death; it is rather a fact that these children have picked it up in a variety of ways. If I can talk about my own, I'm sure they were both reading before school but were clever enough not to let their mother know because they figured that if I knew I would stop reading to them; in essence, we did read an awful lot for a long time. But it did allow some other

things to happen in terms of talking about values and family values and other things around that.

One of the things that sometimes doesn't happen for many of our parents—I'm talking for those in the association for bright children, but certainly as I dialogue with other parents—is that we're not always believed. We're not thought of as the full partners that we want to be in the education of our children, and I think it's really important that that is hit home. Sometimes in the area of our gifted children, it is a real concern.

Briefly, we do favour the retention of hard-to-serve just for those very few students. We really want to stress, not just in this legislation but throughout and as we talk about things, that early identification of strengths and needs be a very integral part of any forward moving in education reform. Thank you very much for the opportunity.

Mrs Marland: Ms Walker, I'm glad you're here today addressing the repealing of section 35. I too share your concern; I share it equally at both ends of the spectrum in terms of children with special needs. I probably find it more difficult than anything else to accept that where we make changes, the people who need the most help end up being eliminated in terms of recognizing those needs. It's unbelievable to me.

I know some of us in this room have had a lot of experience working with children of all ages and all abilities in several school boards, and those of us who have that experience know well how we celebrated Bill 82. Bill 82 was a coming of age in this province in terms of looking after children's needs in terms of their education, regardless of ability.

1640

I have a letter here from the Learning Disabilities Association of North Peel expressing exactly the same concerns that you are. They talk about the fact that although this is a label—and I know the counter argument would be, "Well, we're trying to do away with labels." If that's all this government were trying to do away with, then I could accept it, but I feel it is removing, as you said so well, that last safety net to protect the vulnerable child whose needs could not be met in any other of the existing educational forums.

How do you feel these children are ever going to cope? Do you have a solution we can give to this government, to say to it, "You're creating this tremendous gap, this tremendous void"? They've already created a tremendous void for these children once they're 21 by cancelling the sheltered workshop programs in this province. We already don't know what to do to help those people who, once they're 21, have no longer any opportunity for any training or education in a formal sense at all. Do you have any advice we could try to drum through the heads of the people in this government that is making these regressive decisions?

Mrs Walker: A big opportunity for me; thank you very much, Ms Marland.

There are a number of issues. You talked about Bill 82. The IPRC and the SEAC, the special education advisory committee, were the two main things that came out of that bill for many of us as parents in terms of the partnership opportunities that are there, the partnership within the IPRC as an individual parent talking about your child and how you dialogue around that. Whether it's us talking as individuals for our children or for all children in the province, we need to continue to dialogue and we need to hear from all of the constituent partners that are out there.

When we talk about the students who are over 21 and need continuing support to help them come to their potential as fully as possible, whether that's in a sheltered workshop opportunity or in some other things, we need to dialogue and we need to have options.

I guess this is the big key, that there has to be a variety of options available. There is no one mechanism, one fix, that will benefit all children, and our position as an organization within education is the need for options. There are some students who need, at some times, the regular placement option, some who need a special class, some who need our provincial schools and some who, in extreme cases, and there are very small numbers of them, will need that hard-to-serve situation.

Those options need to be there, and we need to have a mechanism that ensures that all of those are options open to parents in all school boards, either in that school board or from purchase of service from a neighbouring school board. But we have to ensure that parents don't have to move from school board to school board in order to provide something for their child.

I think that the importance is to really take a look and make sure there are options. We can't keep cutting away things that allow people, particularly children who are vulnerable, to be left alone. They are our future, they are our resource, and we really must support them.

Mrs Marland: The fact that you say they are few in number is enough of an argument in itself. If we can't look after a few people who need that specialized help, then we're just not looking after anyone.

Mr Gary Malkowski (York East): Thank you, Mrs Walker. I really appreciated your presentation and I think you made some valid points.

I'd like to make a comment related to your hard-to-serve. I think in the 1980s, I guess almost about 10 years ago compared to now, at that time the hard-to-serve was a safety net because there were not enough resources available within Ontario. But I think if you think about today we have a different picture. We do have educational options that are available with a variety of resources.

I think I'd like to ask what the real issue is. Is it the

availability of resources to meet the needs of the child, or is it how school boards deliver the resources and the programs for the children? What do you think is the real issue?

Mrs Walker: Probably all of those, Mr Malkowski. I think not all of the opportunities and options are available in school boards. We are seeing now school boards that are taking away some of the resources, particularly in some areas, those people who have expertise in a particular area. Many people are becoming generalists, rather than having specific support opportunities and ability to help teachers in specific areas.

I think the difficult thing is that the children who are hard to serve do not fit into the category of the provincial school necessarily being the appropriate situation for them. There are some other difficulties around that. We would not suggest that hard-to-serve is there as an option before the school boards have gone through all of the opportunities and suggestions and options for that child, but rather the hard-to-serve is a very last resort.

We're finding that we are having more parents calling us with those concerns and issues; certainly from ABC's point of view we have had a number of those parents call. Then, because we don't have as much experience and expertise in that area, we often inform them and offer them the suggestion to work with the learning disabilities association as well as ours as they look for the best solutions for their children. But it still is there as a need for a safety net, unfortunately.

Mr Malkowski: If I could just have a supplementary, I was wondering if you would agree to have the removal of hard-to-serve as long as the Ministry of Education and Training would guarantee the educational options available and the school boards would deliver the services necessary to children in Ontario.

Mrs Walker: I guess my question is, can you guarantee that? We have Bill 82 in place right now, which to me would have been the guarantee to have those options available, and we don't find that it is universally available and accessible to all children.

Mrs Yvonne O'Neill (Ottawa-Rideau): Good answer.

Mr Beer: Thank you again for coming before the committee. Just a couple of points. I just want to make sure that we're clear. Your preference would be that we leave the hard-to-serve designation as it is in the existing legislation. If that is not possible, you would ask us to consider the recommendations, I guess really a proposed amendment that was made by the Advisory Council on Special Education, as a fallback option?

Mrs Walker: The recommendations from the advisory council were to amend that whole section of the act to maintain the hard-to-serve with a slightly different definition, as we have outlined, but to keep it

in place.

Mr Beer: But that would be a number two, if I can put it that way, in terms of your—

Mrs Walker: Yes.

Mr Beer: Okay. I believe that when you were here wearing one of your other hats, there was some question that you might be meeting with the minister to talk about some options and alternatives. I wondered if you were part of that meeting and if there would appear to be some things that might be being developed in the interim that would meet the needs that you have expressed today.

Mrs Walker: It was the learning disabilities association that met with Mr Cooke. I guess the same sort of comment was made, and I'm not speaking for Ms Nichols or the learning disabilities association, but if there was a guarantee that these would be in place, then that's a possibility, but we don't see that as being guaranteed at this present time.

Mr Beer: Okay, fine. Thank you.

The Vice-Chair: Thank you for your presentation.

1650

ONTARIO SEPARATE SCHOOL TRUSTEES' ASSOCIATION

The Vice-Chair: The next presentation is from the Ontario Separate School Trustees' Association. Please come forward.

Mr Patrick Meany: I'm Patrick Meany, first vice-president of the Ontario Separate School Trustees' Association, and I'll introduce Carol Devine, second vice-president of the same association, and our deputy executive director, Earle McCabe. I bring regrets on behalf of our president, Mary Hendriks, and our executive director, Patrick Slack, who would have wished to be here, but they are unable to be here.

The Ontario Separate School Trustees' Association is comprised of 53 Roman Catholic separate school boards. Thirty-seven of our member boards are operating under Bill 75 and have minority sections. Of these boards, 31 have French-language minority sections and six have English-language minority sections. Roman Catholic separate school boards educate approximately 600,000 students in the publicly supported schools of Ontario.

The Ontario Separate School Trustees' Association generally supports the amendments proposed by Bill 4, the Education Statute Law Amendment Act, 1993. We previously expressed our support for various of the proposed amendments when they were put forward as part of Bill 125, the Education Statute Law Amendment Act, 1991, and Bill 88, the Education Statute Law Amendment Act, 1992.

In this brief, OSSTA wishes to make submissions on two aspects of Bill 4 of particular concern.

Mrs Carol Devine: The aspect of the bill I would like to address is that dealing with hard-to-serve pupils.

The Ontario Separate School Trustees' Association opposes the repeal of section 35 of the Education Act concerning hard-to-serve pupils. Section 35 recognizes what we think is the very practical fact that school boards are not staffed, equipped, resourced or financed to accommodate all school-aged children and ought not to be obliged to do so.

We believe that the repeal of the section would permit the province to download on to school boards the financial obligations for the care of hard-to-serve children who cannot be accommodated by school boards. In fact, particularly in the case of small boards, the diversion of these funds to the provision of adequate and optimum service for these hard-to-serve pupils could divert funds from other educational programs and may impact on other students as well.

We believe that it would be more equitable for the relatively small number of hard-to-serve pupils to be funded out of general provincial revenues, as happens now. The per-pupil resources which would be required to provide for these hard-to-serve pupils far exceed the per-pupil provincial grant that is available. These students often require very specialized programs, far beyond what is normally provided within school boards in order to meet their needs sufficiently. As I already mentioned, for small school boards and sections hard-to-serve pupils could be supported, but at the expense of other pupils, because educational resources would have to be diverted for those particular needs.

In addition to that, much of the service which needs to be provided for these hard-to-serve pupils is health oriented and not merely educationally oriented. In effect, school boards with the new provision would be required to provide health services to these pupils, which again would be funded through education grants and local assessment.

We would like to emphasize that if this legislation is in fact enacted, we would call at that time for the immediate and rigorous implementation of policy program memorandum number 81, which outlined very specifically the particular provisions for health support services which should be divided among the ministries of Education, Health and Community and Social Services and which would become that much more important if all pupils, including those now called hard-to-serve, became the sole responsibility of school boards.

In fact this policy memorandum has not been fully implemented at this point, and the costs for some of the services which the memorandum provides for, provision from various ministries, are in fact still being provided through school board revenues and school board resources.

For example, speech pathology is listed in the policy memorandum as something which will be provided by the Ministry of Health. Yet I know in our own board, and I'm sure in other boards, the provision of these services is through the local board, through provincial grants and local assessment base. If our speech pathologists were not available to our students, they would face a very long waiting list and perhaps an even longer period of time for service within the local community.

It is our hope that we can continue to provide or that the province can continue to provide optimum programming for these hard-to-serve students, and we see that this would cause great problems if that were left to the limited—in some cases very limited—resources of local boards to provide, and at some cost to our other students as well.

Mr Meany: The other topic on which we wish to comment is day nurseries.

Section 29 of Bill 4 would amend section 171 of the Education Act to authorize school boards to "establish, operate and maintain day nurseries within the meaning of the Day Nurseries Act, subject to that act."

While the Ontario Separate School Trustees' Association has previously indicated its general support for the recommendations of the report of the Advisory Committee on Children's Services, 1990, entitled *Children First*, we did so on the basis that full provincial funding for such initiatives would be provided.

We therefore support this provision of Bill 4, but on the understanding that any obligation to operate day nurseries must be wholly financed by additional provincial funding and not by a diversion of existing funding from provincial grants or from the property tax base.

Thank you for the opportunity to make submissions on Bill 4.

Mrs Marland: This is a very important presentation from the Ontario Separate School Trustees' Association. Both of the points that you've decided to address happen to be two areas that I personally am very concerned about.

Mr Meany, I know that you're familiar with the learning disabilities association of north Peel, because you and I are elected to represent the same area of Mississauga, and I know that you would share the concern that they express. They wrote to me on June 4, 1993, and they said:

"We believe that by eliminating hard-to-serve, the minister fails to honour his legal obligation to ensure that all exceptional children in Ontario have available to them appropriate special education programs and special educational services. Our association asks that you bring our concerns to the attention of the members of the social development committee," which is what I'm doing now.

They go on to say they want these children con-

sidered because eliminating the hard-to-serve category without a replacement service mechanism in place will have a major negative effect on the lives of these children with severe learning disabilities and their families throughout Ontario.

I think the key point that they are raising here is that this hard-to-serve category is being eliminated without a replacement service mechanism in place. What you're saying in your hard-to-serve pupil comments of your brief is that you can see another way of it working when you're suggesting that, if the policy program memorandum of July 19, 1984, of OSSTA was enacted, you would see a cost-sharing of the program in terms of involving the ministries of Education, Health and Community and Social Services.

Obviously that's a realistic approach, but what I'm wondering is, I think you and I have been elected for enough number of years, realistically and fairly through three governments, that I'm wondering how realistic we are to dream for these programs to continue once that hard-to-serve category is eliminated from the act. You and I were both involved when Bill 82 was passed, and that was a victory in this province, to address the special needs in terms of education for our special children. So what is going to happen to these special-needs children and special-needs young adults?

1700

Mr Meany: I would say "were it to be eliminated," because I really think that, through this committee and reconsideration, it won't happen. Again, to refer myself to a background, you'll recall that, not that long ago when such challenges happened in a family, the family had to bear the whole brunt of it, sometimes with extended family. In our board, long before Bill 82, and with our resources, which you know are more limited than those of some, we brought in the educational end of such services. When Bill 82 came in, our methods were studied and adopted elsewhere. This spread, throughout a much wider area, costs that used to fall on a family.

Now what we are saying is that we of course fully support that such services should be provided, but we think they should not fall on such a very narrow base of support. We've come past where they just fell on the family and the extended family, but it's hardship too if they fall on a local area and if they happen to be very expensive, as some of them are. We think that the whole province should be taking responsibility for those people who have those requirements. I think that puts it in a nutshell.

Mrs Marland: I agree totally. Can I just ask you one fast question about the day nurseries? Every government holds out the carrot and says, "This is going to be a wonderful program for children across this province or adults across this province," and then the program is implemented and it's the local taxpayers, through their

property taxes, who end up funding it, which is essentially what you're saying about day nurseries.

I know you're as aware as I am that we in fact have brand-new schools in the region of Peel presently with kindergarten and day care centres already built and they are absolutely empty. So when you bring this concern to this committee, because you're representing a province-wide association, can you tell this committee whether in fact the situation in Peel with facilities absolutely ready and up, waiting to be occupied, are vacant, whether that in fact is saying there isn't a need to have day care facilities built in as part of the schools at a tremendous cost for the school boards? Is that happening in other parts of the province as it is happening in Mississauga?

Mr Meany: Yes, for one reason or another, not necessarily always the same reason. Maybe these institutions that run such things are not available. In the particular case that you're aware of, it's that they couldn't afford to do it at what people could afford to pay, so people are not using them. It is a very desirable service; we don't deny that. But we simply cannot put in on the local taxpayers of this province, who are very upset already at what they're having to pay.

Mr Malkowski: Two comments. You were talking about hard-to-serve. Could you give us any statistics of how many students are identified in your experience as hard to serve within the separate school board?

Mr Meany: I don't know how many. I think there's only been about a dozen in the province in all boards. Would that be true, Mr McCabe?

Mr Earle McCabe: The reports we've heard run from six to 12 in the entire province.

Mr Malkowski: Is it because of the limited resources or is it because of the separate school boards' delivery of the program, or is it that there are no resources available in Ontario? Which of those is the real issue?

Mr Meany: The real issue goes wider than the separate school boards. It's simply that it's very expensive and because even larger boards now are down to the bone; it's exceptionally tough on smaller boards, whether separate or otherwise. But we, of course, are only able to speak about the separate boards.

Mr Malkowski: Do you have any specific recommendation regarding hard-to-serve situations?

Mr Meany: Simply that the cost should be province-wide; it should be applied to the provincial treasury rather than the local board's treasury.

Mrs O'Neill: You've really chosen to focus your attention today on a bill that seems to have such complexities, and there must be a reason for that. Bill 4, and section 35 of it, really confuses me. I don't understand why we are homing in on a bill that affects 12 pupils in Ontario. We've had parents of those pupils come before

us in this committee, and we had two very good success stories, and a third one that maybe isn't quite as predictable but where there looks like progress. That's 25% of the people who are being served have come before us and told us this was the only answer after a great deal of time.

I cannot understand why we are tampering with success. I won't say anything more political than that, because I've said much more pointed things.

I find that you have focused on something that no one else has, and that's why I'm going to ask the question I am regarding sections, because I don't think we have had it explained to us how special education is served through a section of a board and how complex that can be. Maybe you would like to say a little bit about that. I'm sure you've had experience, and you are the only ones who have brought that particular focus to this debate.

Mr Meany: Simply to say that it is complicated because it's language, basically, and it is one of those things where you have to supply parallel services in the other language.

Mrs O'Neill: That is mandated.

Mr Meany: That is mandated, so the complications build from there. I can't think of any particular ones, but they're obvious, I suppose. I'm not thinking of any particular instances, but we continually have difficulties of all sorts in the boards as in the relationships between the sections as to who's responsible for what. Take my own board, with which I have the most experience, completely amicable relations, but we, every now and again, have to pause and say, "Is this yours or ours, or is it both of us?" Whatever, it just adds. In the case of difficulties such as special education students and dealing with them, of course it gets more complicated.

Mrs O'Neill: Would you have a special education advisory committee for your section?

Mr Meany: Yes.

Mrs O'Neill: There are two CEACs in your board.

Can you see a possibility of a board offering a four-year-old junior kindergarten in some areas and not in others?

Mr Meany: At the moment, I think every one of our boards except one already offers junior kindergarten. I think that's correct.

Mr McCabe: Yes.

Mr Meany: I would have said "all," but I believe there is one, and I'm not aware of the circumstances.

1710

Mrs O'Neill: So you're really speaking with a focus on that board and the difficulties of trying to support mandated programs.

Mr Meany: I was speaking not of junior kindergarten but of the day nurseries that are provided—the

buildings are provided—in every new school by law now.

Mrs O'Neill: Okay.

Mr Meany: The boards, then, are supposed to make arrangements with some local agency, and the agencies recently are not coming forward or have to do so at a cost that the parents are not able to pay, or for whatever reasons the arrangements are not being made and rooms are sitting empty, as Mrs Marland said, so it's an anomaly.

Mrs O'Neill: Okay. I'm sorry I misunderstood that. That has been brought to our attention by a member of our caucus. So you would suggest that those rooms be freed up?

Mr Meany: Well, we are saying that day nurseries should be supported, or at least we should be permitted to do them, but if we do them, and especially if we're mandated to do them, that the costs should be on the province and not one more thing on the local ratepayer.

Mrs O'Neill: So you're looking for more subsidized spaces.

Mr Meany: We're not asking for subsidy. This is a bill initiated by this Legislature, and we're saying that in relation to this bill, we want to ask you not to require us to provide services at the cost of the local taxpayer. It's a general application of a principle we've had to pay great attention to recently because, democratically, we are under pressure from those who pay those extra bills.

Mrs O'Neill: Thank you.

Mr Tony Martin (Sault Ste Marie): I just wanted to clarify for the committee that it's optional for boards to provide child care, and that still continues to be the intent under this, the change to the act here. It is precisely because there are empty child care spaces for which boards have not been able to get child care providers that they have asked to be allowed to hold child care licences, so they can make better use of the space, and there's no intention at this point of forcing anybody to do anything.

Mrs Marland: You said it's an option of the school board. I thought the school boards were required now, when they build and design new schools, to incorporate into that school design and that school construction the space for a day care centre. Am I right?

Mr Martin: That's right.

Mrs Marland: Well, how does it become an option?

Mr Martin: They don't have to run a program in it, Margaret. They just have to provide the space.

Mrs Marland: They just have to spend the capital dollars building it. It doesn't matter if it stays empty. Can you believe that?

Mr Martin: Yes, and the provincial government provides the capital. I'll give you an example. In Sault

Ste Marie we have some space and the YMCA is willing to provide the service, to be the licence holder, so the school board and the YMCA in that instance will cooperate to make sure there are day care spaces. In some instances, schools are not able to come up with a provider, so they're asking for permission to do that.

Anyway, I just wanted as well—on the hard-to-serve, actually, the numbers that are recorded in the ministry are six. There may be others out there in process; there may be hard-to-serve committees looking at that go up to perhaps 12 at any given time, but there are six that have been designated hard-to-serve at the moment, and I believe two of them are in Peel-Dufferin separate out of that six.

The Vice-Chair: Do you wish to respond to Mr Martin's statements at all?

Mr Meany: No. We are glad to have assurance that we will not be obliged to supply this service and pay for it. With regard to the hard-to-serve, there are very few of them and I would hope that such a little thing for the province doesn't become a big thing for some local community.

Mrs Marland: Right on. Well said.

Mrs O'Neill: That's right.

Mr Martin: Certainly the government has heard very clearly some of the concern that's been raised at this table over the last couple of weeks. Our intention or desire is as yours: to try to provide for, to the degree that we can, those who are in need out there of special education opportunity. It's a question of how you do it in a way that makes it most cost-effective and, I guess, how you do it so that these kids as well can stay as close to home as possible. We're working on that and we'll be bringing forward some—

Mr Meany: Could I respond?

The Vice-Chair: Yes, sir.

Mr Meany: Nobody has mentioned or referenced the policy memorandum which said that certain services as from early in the 1980s would be provided by the Health ministry etc. That has never seemed to happen, and I know that many boards are actually paying at largely local expense and in compassion because trustees feel they can't let these kids go unlooked after, providing speech pathologists and others.

Really, the decision was taken a long time ago to fix that and we don't understand what has happened. So I wonder if that could be taken into account.

The Vice-Chair: Thank you for your presentation.

YORK REGION BOARD OF EDUCATION

The Vice-Chair: The next presentation will be by a representative of the York Region Board of Education.

Mr Denis Middleton: My name is Denis Middleton. I'm a trustee with the York Region Board of Education. I'm sorry there are not others with me today but,

unfortunately, we didn't get a call till this morning to appear.

As one of our committees is meeting at this hour, they have sent me. I am chairman of our board's junior kindergarten program, so it seemed most appropriate that I come. We felt very much so that, even though it was so late, as the board with such growth in this province we should have somebody here today.

We are only concentrating on amendment 11. If you remember, we have already sent you a brief but we, as a board, have discussed the other parts in here, special education etc. We feel that from our point of view, junior kindergarten is the number one thing that concerns us.

Of all the boards that do not have junior kindergarten, our problems are probably the greatest. We are the second-largest board of the group, but Peel of course at one time had JK, so they have a large number of portables within their system. We have none. We face two problems, essentially, space and cost. So that is why, as I say, we're here.

In 1990, in case you have not read our complete brief, our board turned down the option and unless the ministry paid the full cost, which we estimated at that time to be \$17 million, our board would not do anything at all.

However, in 1992, we changed, with new trustees and a new chairman. We decided then that it would be very wise for us to investigate the whole problem and we have sent you in this brief a good number—the information that we have.

Last of all, we sent a letter on May 3 to Mr Cooke—you have a copy of it, I believe—in which we noted a number of things that we felt we needed the answers to before we went ahead.

You'll note in this report, we have already done a great deal of work with all the other agencies, especially the day cares in our region, both the ones that are in our schools and also the private and the community ones, and we have sent letters to every municipality asking about space and we certainly have worked well on this.

As far as the ones that operate within the school, 23 in our case, we have tentatively got some figures that we would work on if we were going to operate our JK program within their facilities. I might suggest to you that costwise, it still costs a good deal just to do that, let alone the fact that we're running into real problems in terms of the use of non-teaching personnel within there and the use of their personnel.

However, at the back of our brief, we ask for exemptions and our reasons for this, and I'm not going to read them to you unless you wish me to later or wish to comment on them. I just have two more comments because I want to be brief. I know it's getting on.

OPSBA had a special meeting just last week with

Carola Lane and Maurice Poirier to discuss the whole question of JK; 19 boards out of 21 were there that day. We made it at that time very clear that we do not see the implementation of JK at all as a political issue like some boards have tried to make it. Our board is committed to the fact that this is not a political issue with us; it is essentially financial, because in our case that's where we are. We're just short of money.

1720

We also have one last thing we said the other day and we would like to say again, and that is the ministry and also all three political parties have not convinced the public of the need for JK and in fact for many educators, and we think it's about time that was done. Now, in our case, I happen to be a very convinced person. I saw a number of Operation Head Start programs in the 1970s and 1980s. I've searched the research.

I'm quite convinced it's a valuable program, especially in an area like ours where we have so many students on ESL and where in Mr O'Connor's area we have a large number of students in children's aid and people who have not had the opportunities to advance like so many of the people in the southern part of our region. However, essentially people are not convinced and we raised this the other day and we wanted to raise it also with you again.

I'd be glad to answer any questions.

Mr Malkowski: Thank you for your presentation. I'm sure you would agree that pre-school children should have the opportunity for early educational opportunities, correct?

Mr Middleton: Yes, I do.

Mr Malkowski: Would you also agree that boards should then be accountable to provide those educational opportunities for the children if the parents request them?

Mr Middleton: Well, that's easy to say. I can tell you one thing: In our region, if we went ahead with that, I think that the next election those who supported it would no longer be in office. In our area, there are tremendous pressures on us not to have JK but, as I said before, I'm very much in favour of it; I think the research is very clear. But when you start talking \$20 million and more, that's something that the people don't seem to be ready to do.

Mr Malkowski: Just finally, do you think that junior kindergarten should be available as an option?

Mr Middleton: Speaking for the board and not for myself, I would say no at this time for the same reasons: just a straight case of finances. We already have 832 portables in our system. How many more can we get in? We are facing, for example, in the town of Richmond Hill, especially where we have the most growth, we are not going to be allowed to put any more

portables on most of our schools. The town has said we can't do it. So where do we put these people? It so happens in the same area we lack community space as well. The town of Richmond Hill has not any space to loan us at all, nor have private day cares.

Mr Beer: Thank you, Denis, for coming to the committee even at late notice. We appreciate it. I think one of the things I would like to ask you to do is to just share with us a bit more some of the things which, while they have been sent to the committee, as we are discussing this in the public forum and in Hansard, if you could just share—and I appreciated the point you made about the board's perspective, that this is a financial issue not a political issue, and that what you're looking at in terms of just the existing situation with the 800-plus portables, that that's where the difficulty lies.

When the board reopened the issue in 1992 and started to review it, as I understand it, it was with a view to making some optional proposals or looking at: "Here's our existing situation. What are some things we could do?" What were you looking at in that context?

Mr Middleton: We were clearly looking at the Grey county option, whereby we would use community space, we would use day cares, we would also use a good many graduates of community colleges. We at first had hoped that we could use, for example, one teacher between two classrooms and we realized that is not going to be allowed. But those were the areas we expected to use.

As you know, we are gaining every year over 3,000 students. We have yet to come less than 3,500, and even though the housing is slowing down in York region and also in Ontario, we still expect to come close to 3,500 new students in the fall. If you think about that, if we had to put them all in kindergartens, JK, we would have to have another 110 portables for this when we got started—just to start with. Otherwise, we were using the Grey county model. We have discussed this with Carola Lane a number of times, including the other day. We have talked with the ministry people.

We don't see the value of putting on another 110 portables. We do see using community facilities. But, as I say, they're very difficult. We've been running meetings solidly for the last six months with the different community groups. We have three staff people working on it, and, as I say, sure, probably within another year and a half we will have an agreement with the 23 that operate in our schools, but imagine having to deal with another 50 around the community, let alone then getting out and trying to find space in shopping plazas etc. We've been looking at all those things, even shopping plazas, as a group.

At the same time, we have also been working with York University for the last two years to provide special courses for JK. We have already had 40 teachers take extra work in that field and we expect to continue. We

have already arranged with York University that we will be operating a special program for people who wish to be qualified in JK this coming fall and we expect to continue that right through.

It's not that, as I say, the majority of the board are against JK, it's not that all of us were against it, and certainly not staffwise. We are working towards it, and we have been trying to hire people the last three years. As you know, we're probably the largest hirers of teachers in the province, have been for the last four years. We have been hiring people with primary qualifications, especially getting ready for this whole thing. But at the moment there wouldn't be 110 trained teachers, by the way, to start with.

Mr Beer: This program that you're working on with York University, this would be a program of the York region board where you would be hiring people who would be taking the special program?

Mr Middleton: We subsidize some of our teachers to take it, but it's not just for our people. York will be operating it in Newmarket again. Other teachers can take it as well. But it's because we have been providing the major groups, and we have also been providing some of the staff for it, of course, yes.

Mrs Marland: Mr Middleton, you must find a tremendous irony as a chair of a board that has as many portables as you just identified. I come from a region where, in Peel, half of our separate school board children are in portables—half of them are. We are now graduating children from grade 13 or 12 combination, whatever they call it now, who have never been in anything but a portable. You must find a tremendous irony here this afternoon with a bill that's before this committee that, first of all, says that they're not going to look after the hard-to-serve children any more, and they can give their own excuses for that because I would never defend it in any form; yet on the other hand they're saying, "We will add other programs."

As a chair of a growing board, I'm sure you experience the same things we do in the region of Peel, where you're forced to look at cutting programs, programs as critical for the future of the education of your students as English as a second language, perhaps. That is something I know that the Peel board has looked at—not cutting. The Peel board has not cut its English-as-a-second-language programs, in spite of the fact that they were accused of that, but is just not being able to expand critical programs like that, and yet you're having other programs foisted on you by the Ministry of Education, which sits down here in its ivory tower and doesn't even talk to the school boards to find out what they want. Don't you find it ludicrous and quite an irony that that's exactly what's going on?

1730

Mr Middleton: Not getting too involved in politics, let me say, first of all, that I am not the chairman of the

board; I am chairman of the junior kindergarten committee. But as I say, the chairman today, Bill Carothers, has his chairman's committee operating, so there are a few.

Mrs Marland: You're listed on my agenda as the chair. I'm sorry.

Mr Middleton: Yes. I'm not. That's all right.

One of the things we have not done is that we have not cancelled any programs yet. It's quite a strain. We came in at a tax increase of 6.9% this time, but we have not cancelled any programs. Yes, it is a strain, especially for some of us who believe that the reason we've got 832 portables is because in the past some of both the trustees and staff did not do the right thing. I think we should've had more schools. We should not have had this many portables. However, that was a policy we had in terms of how we were placing schools which came from years before. However, it's to say, like you, that we feel we don't wish to add any more.

Programwise, I guess where we are is that it's not too much what's foisted on us; it's whether we could get rid of some others. We think there is certainly a need to take a look at programming, and one of the things we're meeting as a group in August to discuss is our priorities, what priorities we have about programming as one item; another in terms of facilities. We're meeting definitely with our new director to discuss those things.

If we could get rid of some things, definitely I believe that there are some things that we need to do. We do not have enough in terms of science and technology. We have not cut ESL, but like you, we have more people needing ESL every year, because there are a good number coming into York region.

We would appreciate it if we could have a balance whereby we could play down some things if we have to change other things. Unfortunately, at the moment that hasn't been done, and why it hasn't been done I don't know. I really feel that's something we certainly have let the ministry know.

On the whole, as I say, we don't feel that we want to get involved with programming and things of this nature as a political issue. We want it as a straight issue as to what's best for children.

Mrs Marland: Do you think the local school boards should have the autonomy to identify the special needs in, for example, a growth board that has a lot of immigrant children where there are special language needs, rather than have the ministry direct you as to what your programming would be in terms of the amount of money that's available? Do you think you should be able to have that autonomy so that you can decide what programs are a priority for that board in its particular population needs?

Mr Middleton: As a board, we have discussed the question. We certainly as a whole agree that the minis-

try should set some kind of standard for us all. But as a board that now is down to the stage where we pay our own way when it comes to secondary schools, and where we're down to \$51 million in terms of elementary this year and fully expect that within two to three years we will have to finance it just like Metro, we feel very strongly as a board that we ought to have more say when our local taxpayers are paying the full bill than when it's been fully subsidized by the ministry. We clearly believe in that, and I think that, without exception, our whole board and anybody who has run in the last two years believes that we ought to have more say in terms of those kinds of things, our priorities, yes.

Mr Larry O'Connor (Durham-York): Thanks for coming on such short notice. We had a presentation earlier by the Middlesex County Board of Education, and unfortunately, because we are operating in such tight time, I never had a chance to pose a question. Representing part of York region, and my parts are probably the large rural parts that have their own types of concerns, know that when I think of portables, I think of Morning Glory school with all those massive portables and the portapac that makes it a little bit easier, but right out there on the highway.

I agree with you that junior kindergarten is a valuable form of education. I know that as a parent of a son who just went through junior kindergarten and is now in kindergarten, I think it's quite valuable, because after going through play school and toy library and story time and everything else, he was definitely ready for junior kindergarten when he came, so I think it's quite valuable.

Has the board investigated any way that it might cost-share with the separate board? The growth is a problem that we have in York region, and I know the separate board does offer this. We've got some different opportunities, maybe through some of the high schools that we have. I'm thinking of the high school up in Sutton that has a child care centre. Maybe there are ways we can provide it that need to be investigated, but I was thinking, because of the large rural riding that I represent and the spaces in between some of the schools, if there's a combination of sharing between the separate and the public board on junior kindergarten, maybe there was a unique way that we in York region might be able to approach this in a proactive way for educating our young people.

Mr Middleton: As you know, we have a joint committee between the two boards, the coterminous boards. We have not discussed that, although the separate school really has very little space. I'm sure that they would be glad to take a few in, but let's be honest, it would be such a minuscule, small group that it would make no dent at all, in our thinking.

The one thing we are working on to help both of us in that is joint transportation. We have such a commit-

tee. Both boards, in fact, are to meet by October if all goes well, and we will be setting up with the idea that by next June we will only have one bus service. Luckily, out of 10 bus companies, we both use nine, so that's very helpful.

We have been working. We've been working for six months, and that will help us in JK, especially in your rural areas, because instead of having buses going all over the place, we'll be able to pick up people together. We fully intend to go ahead with that, even though we have our differences. We certainly want to cooperate. We also are doing some buying together. But in terms of the busing, we expect to save anywhere from \$8 million to \$12 million between the two boards over the next five years.

The Vice-Chair: Thank you for your presentation.

Mr Middleton: Could I say one thing? The other day, besides the meeting we had at OPSBA—and, by the way, Middlesex did not come; it was one of the two boards that didn't come—we also, some of the large boards, including Peel and Durham etc, at OPSBA, met Mr Cooke to talk about the question. So you can tell we're doing it three ways: one with you, one with him personally and one with OPSBA with Carola Lane. Thank you very much.

The Vice-Chair: Mr Gardner has circulated a summary of recommendations and concerns regarding Bill 4. You have copies of that, and another one will be prepared following today.

This, as I understand it, completes the hearings regarding Bill 4, and therefore we will proceed at the next meeting, which is scheduled tomorrow afternoon, with clause-by-clause. Is that correct?

Mr Randy R. Hope (Chatham-Kent): According to the calendar, there's only one more day left, and that's clause-by-clause, tomorrow.

Mr Martin: I'm led to believe there was some agreement that we would go another day.

Mrs Marland: I didn't hear what you said, Mr Hope.

Mr Hope: According to the legislative calendar, with the calendar that's put before this committee, it says that the date, whatever the date is, August 22—it allowed us until that time, the 22nd, to deal with this bill. We do not have the power, it's beyond our power, to go beyond that date, for the simple fact the legislative calendar doesn't permit that.

1740

Mrs Marland: It's really fun when you're subbed into a committee as I am today, because obviously I don't have all the joys and the thrills and the dynamics between the people who are on the committee and what's been said and what's gone on before today.

I wish it were as simple as Mr Hope says, that the legislative calendar finishes on Thursday the 24th, but

the legislative calendar also scheduled us to be back in this House sometime around the second week of March and, as I recall, we were not called back to this House by the government of this province, the Bob Rae socialists, until April 13. You see, the legislative calendar cannot be used or wielded as some kind of wonderful argument here, because in fact the legislative calendar doesn't stand for anything other than when it suits the wishes and desires of the sitting government, the same government that changed the legislative calendar and all the rules of this House one year ago.

If you're going to argue that the legislative calendar is a reason to close out on Thursday of this week where you are now with this bill, I think that argument falls flat. If you are going to move a motion to do anything about this bill at this point, then I would have to call a 20-minute recess in order to get direction from the caucus as to which way it would like us to go.

Mr Hope: I respect that, and that is why I did not put a motion forward.

Mr Beer: It is our view that if the House is sitting, the committee can be sitting and ought to be sitting. Clearly, the government has to look at whatever options it feels it has before it. It's our sense that we in all likelihood will be sitting next week and that the committee could continue to sit. As has been expressed both by myself and the member for London North, the Conservative education critic, who's not able to be with us today, we aren't sure just how much time it would take to deal with clause-by-clause and would not want to state an agreement as to a specific day. I think there is a difference of opinion there.

The government whip has said we will begin clause-by-clause tomorrow; that we understood, and we will do so. It would be our hope that we would continue that next week, if we're sitting. That would still be our position.

Mr Hope: If I may, because I'm hearing some alternatives come from the opposition, Margaret, I respect what you said, but I do not have the authority to go beyond the calendar. The House leaders and the Premier's office determine the time we sit, and that's why I cannot go beyond that. I'm not the House leader.

But to the opposition members, we heard many people come before us and tell us to hurry up and deal with this bill so we can get some of the amended changes forward. I would just pose the question to the opposition members, how soon can we get this bill done?

Mr Beer: As we said before, clearly there is a question around when the House will be sitting. I recognize that this committee can't deal with that; in fact, at the present time we are working on the calendar for Thursday. The only point we would make is that if we are sitting, we continue our deliberations. We are not in a position to indicate that we would be through on the Monday at a certain time, and that's why it may be that we begin tomorrow and see what happens in terms of the House and sitting. But as was indicated, we have one more day left if the session ends on Thursday, so we know what we're going to be doing tomorrow.

Mr Hope: Would the opposition be willing to sit beyond 6 of the clock tomorrow to deal with clause-by-clause? We do have the House sitting till midnight, which allows us that opportunity to do so too to deal with the clause-by-clause. There's a substantial amount of hours. I just pose that question.

Mr Beer: From the discussion we had previously on that, there wasn't ultimately agreement on that. In the absence of the critic for the third party, that is something that presumably could be discussed, but at present, we recognize that you have said we will start clause-by-clause tomorrow. At this point, that's probably all we know and all we can do. We leave it at that.

Mrs Marland: To respond to the question from Mr Hope about this committee sitting after 6 o'clock tomorrow night, as the government is forcing us to sit till midnight, and as I speak on behalf of a caucus with 21 members and you speak on behalf of a caucus with I think 73, at the last count, I'm in no position to agree, because when the House is sitting, obviously we have to cover the House as well. That's not very easy for us to do.

The Vice-Chair: Anything further? If not, the committee stands adjourned until tomorrow afternoon.

The committee adjourned at 1746.

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*Carter, Jenny (Peterborough ND)
 Cunningham, Dianne (London North/-Nord PC)
*Hope, Randy R. (Chatham-Kent ND)
*Martin, Tony (Sault Ste Marie ND)
 McGuinty, Dalton (Ottawa South/-Sud L)
*O'Connor, Larry (Durham-York ND)
*O'Neill, Yvonne (Ottawa-Rideau L)
 Owens, Stephen (Scarborough Centre ND)
*Rizzo, Tony (Oakwood ND)
 Wilson, Jim (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Malkowski, Gary (York East/-Est ND) for Mr Owens
Marland, Margaret (Mississauga South/-Sud PC) for Mrs Cunningham
Mathysen, Irene (Middlesex ND) for Mr Hope

Clerk pro tem / Greffière par intérim: Pajeska, Donna

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Official Report of Debates (Hansard)

Tuesday 22 June 1993

Journal des débats (Hansard)

Mardi 22 juin 1993

Standing committee on social development

Comité permanent des affaires sociales

Education Statute Law
Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation

Chair: Charles Beer
Clerk: Douglas Arnott

Président : Charles Beer
Greffier : Douglas Arnott



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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 22 June 1993

The committee met at 1622 in committee room 151.
EDUCATION STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Are there any amendments pertaining to sections 1 to 10? Shall sections 1 to 10 carry? Carried.

Mrs Dianne Cunningham (London North): Mr Chair, I would like to point out to Mr Malkowski how agreeable I've been so far in the meeting.

Mr Charles Beer (York North): I have an amendment to subsection 11(4) of the bill, subsection 11(5.1) of the Education Act.

I move that section 11 of the bill be amended by adding the following subsection:

"(4) Section 11 of the act is amended by adding the following subsection:

"Junior kindergarten

"(5.1) The regulations made under subsection (3) shall provide that every board is entitled to be paid a legislative grant sufficient to cover all capital expenditures incurred by the board for the purpose of complying with paragraph 6.2 of subsection 170(1)."

The purpose of this is that we have further amendments that relate to junior kindergarten, but in the event that those don't carry, we wanted it to be clear that if junior kindergartens were mandatory and had to be provided, one of the major concerns expressed by a number of boards, both those that have been before the committee and also those that have been in touch with us, is the problem around capital expenditures. This was to ensure that the province would provide sufficient funds to cover all capital expenditures incurred by the board.

Mr Jim Wilson (Simcoe West): I think the principle of the amendment as proposed by Mr Beer is a good one, because we've long complained, throughout the past eight or nine years, about the downloading that's occurred with respect to junior kindergarten. It seems to me that politicians at Queen's Park have taken a lot of credit for implementing junior kindergarten, for making the announcement that there shall be junior kindergarten throughout the province. Meanwhile, the school boards and the local property ratepayers have been stuck with many of the bills.

We certainly support the principle of the amendment.

We have further amendments, as we get into sections 14 etc, with respect to the same principle.

Mr Tony Rizzo (Oakwood): A couple of days ago we were talking about the problem of paying for the capital expenses. Apparently, the member from the Conservative Party was saying, and I think rightly, that the ministry was forcing school boards to pay for capital expenses to accommodate junior kindergartens even if the program was not was not going to be implemented.

It must be somewhere else in the bill where this amendment is covered. In other words, it appears to me, from the discussions we were having, that there is the urgency to have junior kindergarten implemented; therefore, even if some boards were given the opportunity not to go through with it, still they were forced to build the accommodation. Is this the understanding we had? Margaret was talking about it.

Mr Jim Wilson: It's a government member who's speaking, so perhaps we could ask the government side to clarify that point.

Mr Tony Martin (Sault Ste Marie): The normal capital expenditure considerations that have applied to JK over the last few years will continue to apply to JK, so there is facility through the normal capital allocations for school boards to apply. In fact, there is a special capital grant set aside for JK; it isn't going to be enough to cover everything everybody would want, but in order to be fair to those who have already gone before and the process that was applied there, it's only fair that we continue in that manner into the future, recognizing again the limitation on our ability to provide. I think the ministry makes every effort to accommodate; within the limitations, we do the best we can.

Mr Beer: I think the point of this, and I want to reiterate, is that this is something where, if the province is mandating a specific program and, as in the case of this one, it has capital implications, then the financial arrangement between the province and the boards at the present time does not cover all capital expenditures incurred by the board. What we're seeking to do here is to make that commitment very clear, because while there is a financial commitment the government currently makes, it is not the commitment that is set out in this proposed amendment.

Mr Martin: There is also a package that went out today before the meeting started from the ministry, a response to Mrs O'Neill's questions re the funding of junior kindergarten that you might want to have a look at as well, which speaks to the funding of various

things. We won't be supporting this amendment.

Mr Jim Wilson: I'd like a clarification from the parliamentary assistant. Though I've read the note provided by the ministry in response to Mrs O'Neill's question, what it doesn't address is, what is the shortfall in terms of capital dollars?

My school board in Simcoe county, the public school board, is having a very difficult time and will continue to have a difficult time implementing what's being mandated here by the government in terms of bringing in junior kindergarten. Part of the problem, I believe, is capital dollars.

The note indicates that treasury has allocated \$50 million more in operating grants to the ministry, and goes on and gives all kinds of other figures. What I'd like to know is, capital funds are \$95 million, but what is the projected total cost in the province to actually introduce junior kindergarten? That would be my question.

1630

Mr Martin: We don't know, Mr Wilson, but what we're saying is that boards can continue to apply as they have re their capital needs. In this instance particularly, there's still \$46.8 million remaining in the pot uncommitted that will go out to boards that will have some need, because they will expand into JK in the next three years because of this legislation.

Mrs Cunningham: One of the great concerns about this bill has been the downloading of the government on to local boards, and this is a perfect example. Ideally, it's fine for the government to ask school boards to be implementing junior kindergarten programs whether they can afford it or not; but I certainly support the intent of this amendment, that if in fact school boards are going to be asked to implement these junior kindergarten programs, the least the government can do is provide the capital funding.

I would ask at this point in time to the parliamentary assistant, if a school board is requiring capital funding this year for a new child care centre, even this year, I'd like to know exactly when it could get that money from the government of the province of Ontario if it were to ask for it this year. When will they get the money and how will they get it?

Ms Julie Lindhout: Most boards have already made their requests for this coming year, because that's through the normal capital forecast. The remaining boards I think are holding off to see what's happening with this bill and its regulations as to how they will apply, but the amount of money that is available for capital expenditures will remain available to them in this fiscal year if they should be applying for it early next year in preparation for next September.

Mrs Cunningham: Two years ago, anybody who asked for any capital dollars for schools or for additions,

they would wait; the money would be flowed from the ministry three years down the road. They actually had the permission, but they had to go out and debenture. This year, the funding is changed again. We don't understand whether in fact the school boards will ever get money. They are now being allowed to borrow. My specific question was, if someone had an approval for an addition that included a junior kindergarten classroom, at what point could they expect to get the real dollars from the government of Ontario? It's a simple question.

Mr Martin: Our understanding is that the JK money is in a special pot and will be allocated as it's needed. As soon as people can get application in, then we can get it out.

Mr Beer: May I just have a clarification on this? Even apart from the committee, I think a lot of the discussion we've all had with school boards has been around capital. The overall capital program has been changed to a debenture one, and I want to make sure I understand. What you've said is that the capital dollars for junior kindergarten for this fiscal year are not through any debenture, the new program. But will that change after this year? Are you saying that this year that would come from a special pot, but then capital for junior kindergarten would be dealt with in the same way as the other capital, so it would be through the new corporation?

Mr Martin: Yes. My understanding is that once this \$46.8 million runs out, then we're into the usual application for capital. The debenturing hasn't been finalized yet, but that's certainly where the ministry is looking, and I believe there will be some further direction in the not-too-distant future around that.

Mr Beer: Just to make sure it's on the record, what you're saying is the \$95 million in capital funds for 1994, there's \$46.8 million that remains uncommitted, which is in a separate fund. But that amount is not 100% of capital for junior kindergarten. In some instances is the province paying 100% of the capital expenditure, or does that vary from board to board?

Mr Martin: I'm told it varies from board to board.

Mr Beer: What would the basis for that be? Would that relate to the board's assessment base, grant rate and so on? I see some nodding heads.

Ms Lindhout: It depends on the board's capital grant position, which is not exactly the same as the general legislative grant position, and it depends on the plans that they submit. It's based on the standard rating of their plans.

Mr Jim Wilson: Just going back to the response I received from the parliamentary assistant regarding the capital funds, it strikes me as passing strange that the government doesn't know, even though the concept and the urging to implement junior kindergarten has been

around for a number of years, what the total cost is of the program.

The parliamentary assistant's assistant indicated on the record that there's \$46.8 million left in the pot of the \$95 million, and I believe I heard her say that school boards were waiting for this legislation.

It strikes me that the reason there's money in the pot is school boards have been very hesitant to move ahead with junior kindergarten. They've not taken the government up on the money to date because of the uncertainty out there, and what this legislation does is put a gun to their head and say "You have to do it." Now, there is a provision for an extension of three years if they don't do it right away which the bill mandates under special circumstances, I gather, but I think it's a misrepresentation to say that school boards are out there waiting for this legislation to actually fire the bullet in their heads.

I still want to know. I can't understand in this day and age of budget restraints how anyone could download a program and not know the cost of it. That's unconscionable and I can't understand why the government would do that. That's the crux of the problem that we deal with when we visit our school boards. They think we live in La-La Land up here. If they don't have a total handle on what the cost is, then we shouldn't be moving forward with this part of this legislation.

Mr Martin: It's important to note that not all boards need new spaces to accommodate this reality. The original \$95 million was calculated on what we approximated it would cost to introduce junior kindergarten across the board in Ontario, and it's playing out.

Mrs Cunningham: Whatever that means. All I know is that on April 23, the Treasurer announced that \$635.6 million would be cut from the Ministry of Education and Training budget, including a \$130-million deferment of operating grants and, I'll underline, the cancellation of \$69.6 million in transition funding for school boards. That's the position of the government.

If we think for one minute that the government is going to cough up money for junior kindergarten programs—we've never heard anybody come forward and say thank you yet, except in new schools, and I'm not even sure that policy is still in effect. You could respond in that regard if you want to.

The point of the matter is, many boards have chosen not to introduce junior kindergarten programs. My colleague is trying to say, if you're going to force them into it by this bill, then you'd better give them the money, because one of the reason they're not doing it is they haven't got the money, including capital.

I should also add that I don't think school boards down the road will ever see any real money in capital dollars after the recent actions of the government in the

budget with regard to their new process for capital funding. We do not know, just because you have given school boards the right to borrow money, even from the government, if we will ever see them get it back. It may be interest-free money, but somebody is going to be paying in this province. I'm saying the local boards will pay, because that's been the position of the government, to download, time after time. This effort, on behalf of my colleague, is to make certain that the school boards get the capital dollars they need if in fact they're being forced to put forward junior kindergarten programs.

1640

I don't think the answers from the parliamentary assistant are appropriate, and I think that I would ask him to take a look at the questions and come back, perhaps at another time, with the appropriate answers because I don't think they've been correct.

I challenge the parliamentary assistant with regard to the answers to the questions around whether or not anybody will see real dollars out of any special pot for junior kindergarten. I'd like him to check back with the deputy minister or with the finance department or with, in fact, the capital—I forget the name of the department—

Interjection: Capital corporation.

Mrs Cunningham: Well, the capital corporation, we don't know how it's going to work because I've asked the question. But there is a department within the ministry that deals with capital allocations. It's not my understanding that there is a special pot for that. We've got experts here. Maybe we could ask them, but I don't think that's a correct answer.

Mr Martin: It's an interesting political statement, Mrs Cunningham. What I've said is that there's \$46.8 million still in an account in the ministry targeted to junior kindergarten capital needs. That's as clear as I can put it. I don't know what you want me to say.

Mrs Cunningham: Well, I think it's interesting. We'll see what happens. I'm just saying I would like to see it allocated. My question to the department that's responsible for capital allocations will be—and maybe we'll even ask you in the House: How much of that will be flowed before the end of this fiscal year?

Mr Martin: We have to wait to see. As I said, some boards already have spaces sitting there; others don't.

Mrs Cunningham: You could check with the Premier in his own riding. How much money has that board asked for and how much money has been flowed? Check with the Premier of this province.

Mr Martin: All I can say is there's \$46.8 million left in a fund targeted to junior kindergarten and it will be there when these boards go ahead with implementing this once this legislation goes through.

Mr Jim Wilson: I'd like an explanation on this point from the parliamentary assistant with respect to

the new capital corporation that is being set up to essentially borrow money on behalf of the taxpayers of Ontario to lend to schools for capital projects. How will that work? It has an implication with respect to the amendment we're now dealing with, with respect to capital funding for junior kindergarten.

An explanation from the parliamentary assistant on that point and the new system for funding that'll be put in place would be appropriate at this time.

Mr Martin: I can't respond to that whole issue. How it will roll out is still under discussion and has not been finalized as of yet.

Mr Jim Wilson: That simply isn't good enough. We're dealing with a bill that's spending taxpayers' dollars and we can't seem to get answers. The point here is that—I'm the Health critic and we get the same answers from the Ministry of Health in terms of: They have a pot of money for new hospital capital projects. Same scenario here: There's a pot of money for junior kindergarten capital. It's \$46.8 million.

We don't know what the shortfall will be in terms of when all the boards are forced to implement junior kindergarten. I suspect there will be a shortfall. I suspect the original \$95 million doesn't cover the complete implementation of the program with respect to capital costs. If there's a shortfall, I imagine you call upon the capital corporation. I don't think the \$46.8 million goes directly to school boards. It will be a payback, I would think, to the new capital corporation, which is going to go out on the money markets and borrow more money, get us into new debt which won't show up on Mr Laughren's books.

So, I think it's important that we know how the money's going to flow. Mr Martin may be under the impression that this \$46.8 million is going to go directly to school boards; I doubt that, given the setup in the new capital corporation. If the parliamentary assistant can't respond to this, I think we should stand down this amendment, if that's appropriate, until we can get a full response on how the new capital corporation will flow dollars to capital projects and school boards, because there's the same problem in the Ministry of Health and the same problem in other ministries.

It's rather fundamental because taxpayers, at the end of the day, are responsible both for the debts of the province of Ontario, the borrowing of the province of Ontario and any borrowing by the new capital corporation.

Mr Martin: Again, it's an interesting political statement that the member makes, but it's not relevant in my mind to this—

Mr Jim Wilson: It's not a political statement.

The Vice-Chair: One speaker at a time, please, for Hansard. Would you complete, Mr Martin.

Mr Martin: Just it's an interesting political state-

ment. There's work being done to try to manage the finances of the province in front of some tremendous demand and changes that we need to make for the betterment of children and people and we're going to be responsible. We have, as I said, \$46.8 million in an account that is targeted to this initiative and we feel that it will go a long way to alleviating some of the pressure that this will cause.

Mr Beer: I think with all of the discussion we've had on this amendment I feel even more strongly the need to have it put forward and voted on. I thought yesterday that Mr Middleton from the York region board put it very well when he said that from his perspective as somebody who was in favour of junior kindergarten for his board the major problem was a financial one and particularly capital.

I think that is the problem facing a number of those boards, and therefore we need to make very sure, especially in this new context where moneys are scarce and, as my colleague for London North set out, with all of the cutbacks, that those capital expenditures are covered. I think the arguments have been made but I think this motion should be supported.

The Vice-Chair: Mr Wilson, had you completed?

Mr Jim Wilson: Oh no, Mr Chairman; I'm just getting started.

I just want to express that I'm disappointed in the responses from the government. I don't think that my questions were a political statement. I think what we got from the parliamentary assistant was clearly a political statement when he talked about the children of the province. These children are going to be adults some day, and the fact is, they're going to be stuck with some pretty large bills for some social theories that they didn't get an opportunity to comment on and we're not getting answers for at this committee.

None the less, I agree with Mr Beer that this should be voted on to indicate that certainly the PC Party will be supporting this amendment.

We will be revisiting this issue when we get to section 14, and perhaps Mr Martin, if he wants to have this committee flow with relative ease, might be able to provide us with some information by that point with respect to how we are going to be funding school projects in the future. I didn't make the political statement and I didn't introduce the legislation setting up the new capital corporations and I can't understand that members of the government don't seem to know what their treasury is doing, what their Premier is doing.

Mr Beer: Mr Chair, I'd like a recorded vote.

The Vice-Chair: All in favour?

Ayes

Beer, Cunningham, O'Neill (Ottawa-Rideau), Wilson (Simcoe West).

The Vice-Chair: All opposed?

Nays

Hope, Carter, Martin, Malkowski, O'Connor, Rizzo.

The Vice-Chair: The amendment is defeated.

Shall section 11 carry? All in favour? Opposed?
Section 11 is carried.

1650

Mrs Cunningham: We have a number of amendments to section 12.

With regard to subsection 12(1) of the bill, which is subsection 23(1.1) of the Education Act, I would move that subsection 23(1.1) of the Education Act, as set out in subsection 12(1) of the bill, be struck out and the following substituted:

“Period of suspension

“(1.1) A suspension under subsection (1) shall be for a period fixed by the principal, not exceeding such period as may be established by the board as the maximum period for suspensions under subsection (1).”

The intent of this amendment is that it revises the subsection to ensure that the length of suspension is at the discretion of the local school board.

I think that all of us, when we represent our constituents, are extremely concerned about local autonomy, and certainly I haven't met anybody who isn't. It's certainly a very large part of anybody's election platform when they're representing their own constituents within their own ridings. I think this is a non-partisan political statement to make Mr Martin happy, actually, because he doesn't like political statements, so I'm speaking on his behalf as well at this moment.

I should say that we had a couple of presentations, probably more than that—but I think when you have people who are working on the front lines with students—and suspensions, I think everyone would agree, are probably more prevalent at the secondary school level, although unfortunately I'm told that this is a clause that's now being used in our elementary schools to a greater degree than it has been in the past. We certainly did have, I think, some compelling input before the committee from the Ontario Public School Boards Association as well as the Ontario Secondary School Teachers' Federation, and we're supporting them in their concerns as they raise them to the members of the committee.

The Ontario Public School Boards Association does not support the amendment limiting the maximum time for suspension to 20 school days regardless of the reason for suspension. In certain circumstances, they point out, and given the seriousness of the offence, a suspension of 20 days is not sufficient. Length of suspension should be at the discretion of the local board. I really feel in this regard that I would like to hear the comments of the parliamentary assistant on

behalf of the government.

This was not one of those amendments that received a lot of public discussion. I would guess that if anybody had anything to say about the government's intent in this regard, they would probably use, appropriately, the word “meddling.” Teaching in our secondary and elementary schools in the province of Ontario in these times has become increasingly demanding, and we have to give as many tools to our local school boards as we can in order that they can deal with, I think, one of the greatest challenges of all, and that is the behaviour management problems and challenges that principals and teachers are facing in the schools. I am very surprised at this government with regard to this amendment.

Also in a non-partisan, non-political statement, because I really don't want to be accused of this, I will read again some comments from the Ontario secondary school teachers. I think all of us here should be listening to the input that comes before this committee. Otherwise, why do we bother having public hearings? Why do we bother asking professionals to come forward?

They say, with regard to the limit on school suspension, that in fact it does place the 20 days on the suspension of a pupil—I would argue, who would know the right number anyway? They tell us that the amendment limits the discretion of all boards in this matter—are we surprised?—because of concern with the practices of a very few boards that issue suspensions longer than the target limit.

So here we go changing legislation once again because we have a few culprits who can't be dealt with appropriately through guidance, through some kinds of discussions management-wise. I can remember, actually, when I was first elected to the school board in 1973, that in those days in the province of Ontario principals strapped kids. That's what they did—the strap—and parents came forward. I see Mr Hope laughing. I'm afraid to ask him the question that I'd love to ask him, but I won't.

Mr Randy R. Hope (Chatham-Kent): I was a good kid.

Mrs Cunningham: If I ask you, you can ask me.

At any rate, I would just like to say that I can remember being very concerned as a parent and a representative of the public that this was taking place. We in the London board at the time were in the process of moving our principals around from school to school, and it was interesting how, in neighbourhoods where children had not received the strap, if you moved a principal into that community and he liked to use the strap, all of a sudden the kids were bad enough to deserve it. We had to do a lot of counselling of our secondary and elementary school principals with regard to behaviour management. I think this is a behaviour

management issue and I think there should be some counselling and a lot of support given to schools. I don't think this is the time in our society to be taking away one of the tools they have. I thought their comments were worth repeating and I'm going to read them into the record.

They say that "the application of suspensions longer than 20 days is restricted to serious offenses, sometimes involving violence to students or teachers. The suspension is long enough in some cases to remove the student until the end of the term." That's sad because we want our young people in school, there's no doubt. But "the longer suspension is an alternative to expulsion, with its quasi-judicial formality. At the end of a suspension the pupil can be readmitted by the principal of the school without the necessity of a board hearing."

Mr Chairman, you were very much involved in local government and you know, when we get into any kind of board hearings, how expensive they are. So really, I think the teachers have brought forward a very real, valid concern with regard to this amendment.

They go on to say that "expulsion is a more serious form of discipline than suspension. The suspension can be imposed for conduct 'injurious to the physical or mental wellbeing of others in the school.' 'Others' can include pupils, teachers, or support employees."

They go on to say that "expulsion is restricted to the sanction of conduct 'so refractory that the pupil's presence is injurious to other pupils.'" They're actually quoting the act here and regulations.

"In this time of sometimes stressful relationships"—this is a quote from the teachers—"within the school setting, wherein assaults by pupils against teachers are a not-infrequent occurrence, it would be advisable to include a reference to them and to other board employees in the section on expulsion."

All I can say is that we have offered an alternative to this in our amendment, and I would be interested to hear the remarks of my colleagues around this table, because I don't really believe that the government is satisfied with this amendment the way it stands right now. We've offered something for them to consider.

Mrs Yvonne O'Neill (Ottawa-Rideau): I'm quite confused by this amendment as well. I have had quite a bit of experience in this area and actually in making decisions in this area, both as a teacher and as a trustee.

If anyone at this table thinks that suspension is done or taken lightly, they're mistaken. I have very, very recent experience where suspension is the last resort. It's the last resort of a principal. The principal makes a decision on a suspension and he does it with a very, very limited set of guidelines or framework from the board of education or the separate school board, because policy is developed on suspensions locally, and the Education Act is the guide for that. That's the way

many decisions regarding student behaviour are guided in many other areas of a student's life.

What I find, if we put a 20-day—first of all, as my colleague has said, where does the number come from? Secondly, the 20 days then removes any discretion that people may have and, if I may even say, a sense of responsibility to try to either shorten or, in some cases, indeed lengthen the suspension; in other words, to review and to assess the suspension.

Those of you who have not sat on school boards likely don't realize that trustees review all suspensions. They review the suspension, the reason for it, the length of it, and they often review the suspensions every meeting to see just whether the status has changed, whether there's been an appeal.

So this is not an item that is taken lightly, either by the teacher, the principal, the administration of the school or certainly the administration of the board and the political representatives of the board.

1700

What I find—and I think the teachers are the ones who brought it to us—is, this is very irrational. The school year is not defined in 20-day segments. So if we have this 20 days, it could mean that a student would have to be brought back the day before either the March break began or the day before a professional development day for one day. As a former teacher, I just don't feel that would be very useful. We know that the students who are suspended have problems. They have severe problems usually, and they know how, I'm sorry to say, to interfere with the system.

What we need for them are the things that are mentioned in our amendment. We need to ensure that the boards that are not bringing in extra resources are the boards that are going to have to do that and include that in their policy.

This amendment does nothing to serve the students and I think that's what this whole amendment to the Education Act should have as its bottom line: Is this going to make the learning environment better for students? I don't think this amendment does that.

Mr Jim Wilson: I'll perhaps begin my comments by just indicating a question to the parliamentary assistant, which would be: How did the government decide in its amendment here to the Education Act on the 20-day maximum? I'd be interested in that.

My comments would be that although we're dealing with the time period of suspensions—and it's obvious that the PC amendment feels that we should stick to essentially what's in the Education Act now and not amend it to any great degree. In terms of the current Education Act, I just want to read the sentence. It says, "A principal may suspend a pupil for a fixed period, not in excess of a period determined by the board," and it goes on to list the reasons. That's subsection 23(1) of

the current Education Act.

It goes to the question of why we have school boards in the first place. I thought the reason we had school boards and the reason we spend all this administrative money on school boards and why we have so many school boards, is that—and we often heard this from the NDP in opposition—each community is different and that we have boards out there to reflect community values and standards throughout the province. That, it seems to me, was the crux of why we have decentralized decision-making.

This particular government bill and this amendment dealing with a set time period for suspension is another little nail, I think, in the autonomy coffin of school boards. Once again, Queen's Park, Big Brother, is deciding and taking away discretionary powers of the school board. There may be, in high crime areas like Metro Toronto, good reason to suspend a pupil well beyond 20 days. There may be good reason to do that, and currently the act allows some flexibility, gives autonomy and respect to our trustees who are elected. I just, on really a philosophical basis, object to these types of amendments that once again pretend that Queen's Park has all the answers.

If you want to discuss about eliminating school boards, I'd be happy to have that discussion because it seems to me more and more, junior kindergarten—we just had that discussion. Again, that decision's made at Queen's Park, and school boards, when it was voluntary to some extent under the Liberals, didn't play ball because they didn't have the money. So now we're going to force them to do it and now in a small way we're taking away some school board autonomy with respect to flexibility in terms of the period of time of suspension. So I'd appreciate the parliamentary assistant's comments on my comments.

Mr Martin: I want it to be noted that I didn't say we should do away with school boards; it was Mr Wilson.

Mr Jim Wilson: I'd be prepared to discuss that at any moment.

Mr Chairman, on a point of order: I didn't say we should either; I just think if you're going to strip their powers and their autonomy, then we'd better have a discussion of the crux of the matter.

The Vice-Chair: Thank you for the clarification.

Mr Martin: This amendment to the Education Act was in fact a request to provide some safeguards for students. I don't think there are any of us around here who don't know of cases where students have been suspended almost eternally as they went through their high school years. It was put in place so that there would be some pressure on boards to provide the kinds of services they need to turn the behaviour around that was causing the suspension in the first place.

The 20 days was a time period arrived at in discussion with some of these boards who indicated that was about the time they felt they would need to get the special services in place to deal with some of these students. Of course, the 20 days is a maximum. Any period less than that is still at the discretion of principals and boards, and if a student comes back and is disruptive again, he can be suspended for another 20 days. It just gives us points of contact with students more regularly than perhaps has happened in some instances.

This amendment is clearly done to protect kids and students and we feel is necessary as we try to serve, in more proactive and positive ways, some of those kids who at this point in time are not completing their high school.

Mr Beer: Just briefly, Mr Chair, there are two points I want to make on this one. The first, which I think reflects what some of my colleagues have said, does relate to what it is that we want school boards to do, the authorities that they have, and really I think allowing them to make some decisions. Quite frankly, I think if one were to look at what school boards do currently, what their own rules and approaches are within a ballpark, it is more effective not to put the period of time in, leave that to the boards and let them determine their own local situation.

The other point that I'd want to make, and I guess this really stems from my experience when I was Minister of Community and Social Services, is simply that clearly this is a whole area that is becoming much more difficult. We do have the two things we're trying to protect. On the one side, the children, the young people, have rights and those deserve to be protected. By the same token, the society has a right to certain protections, and I suppose the other kids in the classroom, where we're perhaps looking at having another student expelled or suspended.

I think at this point then we combine those two, where we're saying, "Look, at the local level, the board, and through the board the principal and the staff"—I think in a way that was reflected when Mrs Cunningham was reading the OSSTF submission. If we really want this to work, I think it's best that we put that to the board and the board, together with the staff—I mean, all of these groups that are now meeting around the safe school, there's a lot of very good work being done at that level and I think we should leave it there. I believe therefore that we shouldn't be putting the emphasis on 20 school days but rather leaving that to the discretion of the board.

Mrs O'Neill: Good point.

Mr Hope: First of all, just to reflect on some of Ms Cunningham's comments, yes, those who received straps could probably become politicians back in those days. I notice she mentioned that the OSSTF is

opposed. Well, I must make sure that the Federation of Women Teachers' Associations of Ontario is in support of the 20 days.

I'm going to speak on a more personal level, from the community perspective and the parent, dealing with parents and students and their rights. A lot of people don't pay attention to what goes on in school boards, and it's unfortunate at times of this nature, but I believe there has to be a mechanism which allows a governing, which allows a principal to carry out the duties and which will allow a consistent mechanism throughout the province around suspensions.

1710

If we're dealing with expulsion, I'm sure the legal people could really deal with the expulsion aspect of it. But when we're dealing with a suspension, in the nature of a suspension, if you're talking about criminal activity I'm sure the expulsion rule would probably apply to that nature.

I'm not sure if the legal people would like to comment on the difference between suspension and expulsion in those terms, but if you don't, that's fine. I would just like to let the record know that I support what the legislation has proposed, not to exceed the 20 days, and if a period can be shorter, so be it. I just want to make sure the record knows that the Federation of Women Teachers' Associations of Ontario is also in support of that process.

Mr Jim Wilson: I guess what I find problematic with the parliamentary assistant's response to my earlier comments is that when we're talking about school board autonomy, we're also talking about trust, and what I gathered from his remarks is that somehow, once again, only Queen's Park knows what's good for the kids.

We elect and we pay school board trustees, directors of education and a whole slew of other good people to protect kids. That's their mandate, and to operate our schools. This amendment is perhaps a small amendment in the overall scheme of things, but I think it's important in the sense that once again Queen's Park is saying: "School boards, you're not doing your jobs. Trustees, you're not doing your jobs. We don't trust you. Hence, we have to put in a 20-day check period on your suspension decisions." I just find that problematic and, if I were a school board trustee, I might find it a bit offensive in terms of Queen's Park once again telling trustees how to do their jobs.

They're closest to the parents. They have to sit many nights a week at the school board meetings where parents and teachers and kids, children, come forward and make presentations on these topics. I think that if you're going to have local government, you should trust local government. Certainly, the PC amendment tries to respect local government, and I think the parliamentary assistant—I hope the government would consider it a reasonable amendment.

Mr Martin: I think the member makes some valuable contributions there and statements. Certainly, school boards out there—and I was a trustee before I arrived at this job—do their best to provide a quality education for the children they represent or the families they represent. However, no system is perfect and there seems to be a rising momentum out there for—even though everybody's trying to do his best for some standards to be set that we can measure movement on and activity on. In this instance, we will be setting somewhat of a standard across the province that will be set re the issue of expelling young people.

It's parents actually who have brought this issue to the attention of the ministry very clearly on behalf of the children they see not being served effectively and efficiently by the boards which their kids attend. It's in response to that that we feel to put in place a mechanism that creates a contact at least after 20 days between the student who's expelled—so that it's no more sort of, as it is in some instances, out of sight, out of mind.

Interjection: Suspended.

Mr Martin: Suspended—yes, I'm sorry. And that they come back and check in. The board knows the student's coming back and that there will be some things in place to hopefully correct some of the difficulty so the student can get on with life and the school can.

I also wanted to comment on the issue of violence in school. Again, it's in fact in recognition of that, in no way taking away from the reality that's out there, that schools are becoming in some instances a very difficult place in which to operate, that we do this as well. This clearly puts some onus on schools and boards to put in place special services for students who find themselves in difficulty, and hopefully it will go a long way to assist those students who, if they're not helped, can become a real problem for a board and a community.

I believe legal counsel Ms Goldberg was prepared to speak to the issue of expulsion versus suspension.

Ms Deborah Goldberg: If pupils are suspended, they still have a right to be pupils of the board, so there can't be any conditions imposed on their return to school. They still have a right to come back after the suspension has been completed. But there is nothing in here that would prevent the board from applying a series of suspensions to cover a greater period of time than 20 days. If pupils are expelled, then they have to reapply to the board to be readmitted to the school, and if they do that, then at that point the board can impose certain conditions on the pupils before it readmits the pupils.

Mrs Cunningham: I just want to remark on one of the observations that was made, I think by my friend and colleague from Chatham-Kent, with regard to the position of the women teachers. Basically they're

talking about elementary students, and I can understand their concern.

Yes, I would agree with them. I would think that what we would be looking at here is flexibility for both elementary and secondary school principals. It would be pretty serious stuff in fact for an elementary student to be suspended for that amount of time, and I'm sure it hasn't happened frequently.

I would like to ask a question of Ms Goldberg. If in fact the boards now have the power, and this act doesn't change it with regards to a series of suspensions, what in your opinion is the purpose of setting a limit at all?

Ms Goldberg: The limit can function as a guideline for the boards, as an outer limit of what perhaps could be reasonable as a one-time suspension.

Mrs Cunningham: Thank you very much. If in fact this is to set the guideline, sometimes guidelines backfire on us and we use 20 days as the norm rather than the exception, and we all know about that. I think an interesting question would be, what is the track record of school boards in the last two or three years with regard to suspensions otherwise? How many suspensions have exceeded 20 days in both our secondary and elementary schools?

I'm sure the parliamentary assistant could get a quick answer to that. Otherwise there'd be no purpose in changing the legislation unless we have a problem, I would expect. So I would like the answer to that question.

Mr Beer: Mr Chair, while she's preparing to respond, if I could just make the comment that I think Mrs Cunningham made and should be underlined. It's that point about the 20 days, that one is not saying that does become necessarily the norm and that in particular what we're looking at is that the board might have a different approach with respect to elementary and secondary. But the point would be that it would be the locally elected body that would be making that decision, and I think that's an important point to make and an important distinction to make in terms of what happens sometimes when a number gets put into legislation.

Mrs O'Neill: I'm very saddened by the statements of the parliamentary assistant. I held his position, and I told you that I'd been involved in education for 22 years in administration and six years as a teacher. That's a long time. To have a parliamentary assistant of this province say that a student who is on suspension is out of sight and out of mind is despicable. That is saying so much about the teaching profession and so much about the boards in this province that it disgusts me.

I have made my statements more quietly before because I know what goes on. I've been in positions where students have been suspended because I have had difficulty in the classroom, and I've been on the other end of it where I have had to make the decision about

extending a suspension or not.

These are not light decisions taken by responsible people, whether they're professionals or whether they're elected. The boards already have a lot of guidelines; I've said that. If you look at the conditions under which suspensions may take place, they are very stringent. They are conditions that involve a great deal of intervention on the part of a pupil to the disruption of the educational environment. To talk about 20 days is being a standard without any real, good reason—I'm sorry, I haven't heard one yet.

If the government wants to help in this situation, there are ways: professional development for special education teachers, supporting the things my colleague Mr Beer has mentioned; the safety-in-the-schools project; thirdly, making sure the students have the supports in special education that they need. With budget 1993, the cutbacks are coming in special education. That may be a political statement, but it's a fact.

1720

The boards in 1993 are having more difficulty. We all know of the breakdown of the family, and suspensions are often a result of that. The 20 days often does not give the school board the opportunity to build up the supports, whether they be from the local health community or whether they be within the school board operation itself. Sometimes you need more than 20 days to build up supports.

I cannot believe we are being so intransigent in this amendment that all that has been said from personal experience is being discounted and 20 days is the new magic number that every board in this province has to abide by. It's illogical, it's unreasonable and it's not going to help the students of Ontario.

Mr Hope: I find it interesting, listening to some of the comments—

Mrs Cunningham: How many times were you suspended?

Mr Hope: Why don't you just ask my school board? I'm sure they'll be willing to give it to you. I'm surprised it isn't out yet. It's amazing how you can become a politician.

As I've had the opportunity to look at the guilty till proven innocent process—I raise that very clearly—I'm glad we are putting protection in here, because we're talking about a maximum of 20 days. I looked at the appeal process with subsection (2.1), and it says that even though you may have served it, now it's just a determination of whether or not it stays on your record. I'm glad there is a limitation in there, because how many times does it actually get dealt with right away?

If they're saying and Ms Cunningham is saying, dealing with maximum suspension—I notice she doesn't have an amendment put forward saying that guilt must be proven before penalties are applied.

I think the schools are looking for an effective way of dealing with the situation, and I agree with dealing with it. It gives the principals a mechanism to work with, but at the same time it allows protection.

I listened to some of the comments. In my own community, they were being taught about nudity in art class, and a child actually did that and was suspended. Then there were the family effects of suspension, and the family came to me and asked, "What are our rights?" I support the avenue of making sure that parents have a limitation, that there is a process in place that parents can go to.

You say that some boards don't take it lightly. I question some of our board members, and I'm not afraid to say that. I've questioned them many a time on their actions.

Mrs Cunningham: Did you hear that, Mr Martin?

Mr Hope: Well, I agree with some of the comments about getting rid of the board of trustees. Get rid of trustees, as far as I'm concerned.

The Vice-Chair: Please continue, Mr Hope.

Mr Hope: I'm looking at the process, because I look not only at the section but the whole process. The whole process talks about the conditions of suspension, the period of suspension and the appeals process. If there were no limitation, then you'd really have to seriously ask the question, does it make a mockery of the whole system? I'm glad there is a limit and I believe there really should be a limit to deal effectively, because you could be putting a person out there for a lengthy period of time, which is determined by the board, yet the person could be innocent. Where is the repercussion? How are you going to make up those days the child's been out of the school system? I ask that question.

Mrs Cunningham: I'm really impressed with this dissertation. If Mr Hope is correct in his observations, I share his concerns. We've got very big problems in our school system if we are having young people suspended who are not guilty of an offence. If that's something that he's observed or that has been brought to his attention, that's a whole different issue, I feel.

Mr Hope: It's the process—

Interjection.

Mrs Cunningham: Well, 20 days doesn't solve the problem.

The Vice-Chair: Please, one speaker at a time.

Mrs Cunningham: Mr Chairman, I asked a question with regard to statistics and I'd like to have the response to that now.

Mr Martin: We don't have those statistics, Ms Cunningham, but there are a number of boards that have a limit on the length of time for suspension that is less than 20 days, and we have lots of boards with no limits whatsoever. There is no guideline in terms of the time.

Mrs Cunningham: I would say that this amendment is about sameness and everything being the same, the total disregard for local autonomy. I think it certainly meets the criteria and the thinking of this government, and it has nothing to do with the needs in the system.

As a matter of fact, in response to my question, I think it was either yourself or the member for Chatham-Kent who talked about the fact that there's a rising momentum for standards; I can't remember which of you said it, but it was certainly one of you. If you're really serious about standards, let's fold this stuff right now and get talking about things that are really important in education; that is, core curriculum, testing of core curriculum, marks on report cards. Parents are crying out, and so are students, for standards, and young people in our universities and our colleges and our secondary schools now are saying they've been gypped because we are lacking in standards in our school system.

If that's what you want to talk about, that's what I thought I was elected to talk about, but to talk about it this way, wasting all this time on this omnibus bill on things that were neither asked for or necessary—nobody's asking for it. You can't even give the statistics, and I have to say I'm not surprised. I'd like to say I'm disappointed, but I'm not surprised.

If local boards have chosen to put a maximum of 15 or 10 days, that's their business. That's called local autonomy, and I don't think it's up to governments to interfere, and that's what's happening in this regard.

I have put forward an amendment that is supported both by the secondary school teachers and supported by trustees who are duly elected in their local constituencies to represent parents and students. I understand the concerns of the FWTAO. I haven't read it, but I do understand their concerns with regard to elementary school students. I think the fact that they've even raised it tells us that in society today we are facing more problems in discipline within our schools. I like to use that word, Mr Chairman; I know you approve of that word. All I can say is that taking away local decision-making and local methods for dealing with students who are discipline problems is not giving the support to our school boards and our teachers that they're looking for and require.

I'm not at all pleased that we haven't got answers to our questions, but I'm not surprised.

The Vice-Chair: Any other discussion? If not, shall the amendment proposed by Ms Cunningham to section 12(1)—

Mr Jim Wilson: Recorded vote.

The Vice-Chair: Shall the motion carry? All in favour of the amendment?

Ayes

Beer, Cunningham, O'Neill (Ottawa-Rideau), Wilson.

The Vice-Chair: Opposed?

Nays

Carter, Hope, Malkowski, Martin, O'Connor, Rizzo.

The Vice-Chair: The amendment is lost.

Are there further amendments to section 12 at this time? Ms Cunningham.

Mrs Cunningham: This is a little more complicated. My colleague is going to read this one into the record.

Mr Jim Wilson: I move that subsection—

The Vice-Chair: Just a moment, please. Mr Hope, did you have a question?

1730

Mr Hope: I'm just asking whether this motion is in order. Is the motion that's being put forward in order?

Mr Jim Wilson: If I haven't read it in, you can't rule on it. It doesn't exist until I read it.

Mr Hope: I'll let him read it and then I'll ask the question.

Mr Jim Wilson: It doesn't exist until I read it in, Mr Chairman. It's hard to rule on something that hasn't been read into the record.

I move that subsection 12(2) of the bill be struck out and the following substituted:

"(2) Section 23 of the act is amended by adding the following subsection:

"Effect of appeal

"(2.1) An appeal under subsection (2) does not stay the suspension and, if the suspension expires before the appeal is determined, the board shall determine whether the suspension should be confirmed or whether the record of the suspension should be removed or modified.

"(3) Subsection 23(3) of the act is amended by striking out the portion before clause (a) and substituting the following:

"Expulsion of pupil

"(3) A board may expel a pupil from its schools on the ground that the pupil's conduct is so refractory that the pupil's presence is injurious to other pupils or to teachers or board employees, if,

"(4) Section 23 of the act is amended by adding the following subsection:

"Committee to perform board functions

"(6) The board, by resolution, may direct that the powers and duties of the board under subsections (2) to (5) shall be exercised and performed by a committee of at least three members of the board named in the resolution or designated from time to time in accordance with the resolution."

Mrs Cunningham: Mr Chairman, I want to talk about the intent, that subsection 23(3) of the Education Act be amended by the addition of the words "or

teachers or board employees" following the word "pupils." This amendment is intended to clarify the expulsion section of the act.

In this time of sometimes stressful relationships within a school setting, wherein assaults by pupils against teachers are a not infrequent occurrence, I'm sorry to observe, I think it would be advisable to include a reference to them and to other board employees in the section on expulsion. We're just adding a clarification here, for the parliamentary assistant.

That is the concern and certainly the recommendation of the Ontario Secondary School Teachers' Federation, once again. I think everyone should pay close attention to this. They released a report that indicated that there was a 150% increase in assaults in schools between 1987 and 1989. That's of tremendous concern. Of the 881 schools surveyed across the province, about 20% of all schools in the province reported 441 major incidents ranging from biting, kicking and punching to the use of knives and firearms—did we ever think we'd see this?—and 6,300 minor incidents described as swearing, insubordination, threatening, crank or obscene phone calls and damage to teachers' cars or homes during the two schools years.

This is an extremely important piece of research that was done by the teachers and had, I think, rather important implications for the deliberations within school boards, and certainly with the Liberal government of the day, with regard to how they could deal with the rising incidence of assaults in schools and the discipline problems that have been brought to our attention by the teachers.

The victims of these assaults were very often students, but teachers and other school staff were also targets. We know we're not having assaults only on other students by students, but sometimes teachers, custodians and certainly administrative staff. That's why we're talking about adding the words "or teachers or board employees" following the word "pupils."

The Ontario Secondary School Teachers' Federation set up the Safe Schools Task Force in 1990, just at the time that this new government was elected, actually. They wanted to address the growing rate of school violence. The task force has made a number of recommendations to make our schools safer, and in light of the OSSTF's work on this matter, I feel the committee should accept its recommendation for amendment to subsection 23(3). I expect the government to give this particular amendment some consideration. In fact, I was surprised they didn't come back with an amendment of their own in this regard, because I think it would show serious support for the work of the teachers in a very important report over two school years in which more than 800 schools participated.

Mr Chairman, if it's appropriate, I would like the

parliamentary assistant to respond here because this is one of the few opportunities we do have to give recognition to the teachers for their work, and this amendment was based on their work.

Mr Hope: Mine is of a technical nature, because I understand where Mrs Cunningham is coming from and I respect where she's coming from. My technical question to the legal people would be reform schools, or whatever they're now known as.

Mrs Cunningham: You, of all people, don't know the name of those, Mr Hope?

Mr Hope: Are you insinuating something?

Mrs Cunningham: Nothing.

Mr Hope: My first question would be, do they fall under this act, the Education Act, and if so, what implications could this clause have to that effect?

Mr Michael Riley: No, they're not operated by boards. Those would not be schools operated by boards.

Mr Hope: Then my question is, dealing with the expulsion of pupils in classes, because they do go to school, what implications would this clause have to that effect?

Mr Riley: I don't think it would extend to that situation at all. If a board were, for instance, offering services in, let's say, a correctional facility or some other type of facility, then this provision would not reach that at all, it not being a school of the board. It simply wouldn't extend to that, wouldn't affect it.

Ms Lindhout: I'd like to clarify the question, because there are the schools that come under the provincial schools authority which do not come under the boards. But there are classes taught by boards in correctional facilities, and this amendment would apply to those particular classes. It would have an impact on that, and it would have an impact on classes in care and treatment facilities and some of those institutions.

Mr Riley: If you come up with a definition of a school as being a class, that formed a class, yes. All right; that's right.

Mr Hope: Now that I've posed the question, because I understand where Mrs Cunningham is coming from, can it be reworded in order to accommodate the school system that Mrs Cunningham refers to?

Mrs Cunningham: I appreciate the question. I hadn't really thought about the section 27 schools within the corrections. I guess we're both asking the same question now. I didn't think this would be a problem, because within those schools there are still teachers, with regard to any definition of a teacher, and there are still board employees. If there weren't board employees, then I wouldn't think the words would be of concern to anybody. If we're looking at a corrections facility, where the section 27 schools exist, then "board employees" isn't a problem; it would just be the same

person, the teacher or the supervisory officer. I can't see where this would be a problem with regard to the question that's been raised, but if it is, I'd appreciate hearing it.

Mr Hope: I would like to try to accommodate Mrs Cunningham. I would only suggest that maybe we could make a small deferral of this section to look at the legal complications that might be there and work it out.

Mrs Cunningham: I would agree with that.

The Vice-Chair: Mr Hope moves that the amendments to subsections 12(2), (3) and (4) be deferred at this time. Is that correct?

Mr Hope: Well, (2) and (6) or whatever, (2) and (4). It's just the one section of it.

The Vice-Chair: We're looking at it as one amendment, I think, if you wouldn't mind treating the one amendment at this time. All in favour?

Mr Hope: Of standing down?

The Vice-Chair: Yes. All in favour? Carried.

1740

Mr Beer: We have an amendment to subsection 12(2) of the bill. I move that subsection 12(2) of the bill be amended by adding the following subsection to section 23 of the act:

"Review of suspensions

"(2.2) If a pupil is suspended more than once during a school year, the board shall ensure that a guidance counsellor or other appropriate resource person reviews the circumstances of the suspensions and informs the pupil and the pupil's parent or guardian of services that are available from the board or elsewhere in the community to assist the pupil."

Mr Chair, we've put this forward because I think it arises out of a number of issues that have come up. I appreciate that some might say that in effect that's probably what happens, but if you take into account the report Children First, which I think is a significant document, it talked about how we make sure that appropriate resources in the community, whether the health system, the social services system or elsewhere, are used to deal with and help pupils. When we're talking about suspensions, I don't think anyone here wants to lose sight of the fact that what we want to try to do is to help that pupil. We have to make it very clear that whatever kinds of suspensions or authorities we have and that we have to have to deal with a variety of situations, our focus is in getting appropriate resources to help that child or that pupil.

That's the intent of this amendment we're putting forward, because we think that it both speaks to a real need but also, within a legislative framework, I think may partly deal with some of the concerns that Mr Hope mentioned earlier. Clearly here, while a child is suspended, there is a legislative commitment, if you

like, that we're going to provide the sort of supports and resources that young person needs.

Mr Hope: I understand where Mr Beer is coming from with this and I would agree, but it just bothers me a bit. Let's say I get two days' suspension here and two days' suspension there. Then you're going to tell me I'm under review, or that guidance counselling would be necessary. I would say that if there is a first suspension of a maximum period, then you should seriously look at counselling or guidance at that time, not wait until it's the second or third time. Let's try to prevent problems. I'm saying that if a suspension of a severe nature, of a maximum time frame, is put on a pupil, then there should be the opportunities to review at that time. Don't wait until the second or third time.

I only raise this question because there are quite a few suicide attempts by youth. Let's don't deal with the one- and two-day suspensions; let's look at the more severe aspects of suspensions and let's cope with the problems at that end. I only pose that question.

As it stands, I couldn't support it, but I would look at a way of reforming it so that it would accompany that problem that deals with the more severe suspensions.

Mr Larry O'Connor (Durham-York): Maybe we can have a little discussion on this. Actually, I tend not to agree with my colleague on this. I think that a discussion should take place early on so that the parents are well aware of the situation that is taking place within the school, and I think that's the intent behind Mr Beer's motion. It's not once we've got to the severe end of it and it's a real problem, and we're talking about somebody that's received the maximum suspension more than once. I think it would be far better if the counselling could take place long before we have maximum suspensions.

I think this motion as put forward certainly does deal with the severe problems that face parents and children and people in the teaching fields.

Mr Malkowski: I appreciate the amendments from Charles Beer, some very interesting points, but I need clarification from Mr Beer. Are you talking about providing appropriate resources to any number of students in the suspension depending on the seriousness or the gravity? There are different kinds. What kinds of things are you looking for? What's the range we're looking for? Could you clarify that for me?

Mr Beer: I appreciate both Mr Malkowski's question and also the comments from Mr Hope and Mr O'Connor.

Let me start by responding to all three. The intent of this was not to stop this from happening after the first suspension; it is to say that if nothing had been done, then most certainly after the second.

I think the suggestions that have been made are helpful. If Mr Hope was suggesting a friendly amend-

ment, I'd be happy to accept it; something like, "If a pupil is suspended, the board shall ensure..."

With respect to Mr Malkowski, the point here is that the appropriate resources necessary would be brought to bear, and that would vary, obviously, depending on what the reason for the suspension was. I think the point was just to underline that there's a responsibility to deal with the problems that the young person is having, really leaving it up to the board, working with the parents, with other people in the community, who can bring support to bear in working out what's the best program to help that young person.

It would clearly depend on the circumstances, but I would be happy to revise the amendment so that it would read, "If a pupil is suspended, the board shall..." if that meets with the comments made by my colleagues opposite.

Mr Malkowski: You're talking about using appropriate resources. From where? The school boards only, or are you going to use outside of school board resources? Where are you looking?

Mr Beer: That clearly is a critical question. I think one of the interesting points in the Children First document was, "Let us find those resources where they may be." I think increasingly we're going to be looking at finding those resources in the community, whether they are with specific health-based or social and community-based organizations. In some cases they may be within the school board. One of the points of Children First was to indicate that there are other resources in the community that are not necessarily funded by the education system which we ought to make better use of because those resources can be of real help. I think we're going to be looking, in a number of cases, at supports for schools and supports for pupils where the funding and the program are not necessarily education's. The obligation on the board in this amendment is simply to in effect work out a plan, work out an approach that can best help the pupil.

Mr Malkowski: If I might make a suggestion, could we stand this down so we can see if a friendly amendment can come forward?

Mr Beer: I'm always prepared to accept a friendly amendment.

Ms Goldberg: There are a couple of legal considerations that I just wanted to raise about this section.

The section speaks about informing the pupil and the pupil's parent or guardian. I would assume that "informing" doesn't include requiring the child or the parents to attend counselling, because we cannot, in legislation, do that. We can't force the child or the child and the child's parents to attend counselling. We can inform them of what resources are available if they choose to go to counselling, but we can't make counselling mandatory.

The other thing is, as I said earlier, that we also

cannot make counselling a condition of a child returning to school after suspension.

The third thing is that in implementing this section, boards would also have to be sure that they are complying with the strictures of the freedom of information legislation, because we are talking here about transferring personal information among board employees.

I think we can make it a bit easier for the boards to comply with the FOI legislation if we make two small changes to this motion. One change would be in the third line where we're speaking about a guidance counsellor or other appropriate resource person, to add after that, "employed by the board," so that it's clear that those people who are receiving the personal information must be board employees.

The other change that I would suggest is that where we speak about the pupil and the pupil's parent or guardian, we add after that, "where the pupil is not an adult," so that if the pupil is 18 years old, the parents or guardian need not be informed. That is consistent with the rest of the section dealing with suspensions and expulsions, where parents or guardians are referred to in the context of the child not being an adult.

1750

Mr Beer: I appreciate those comments. I just have one question and then a comment. In wording this, we haven't said, I don't believe, that the pupil or the parents have to accept or be forced to accept that, but that a review is done. Hopefully that, then, is communicated to the parents in some form or other. While one would hope that happens in terms of the written communication and probably in most cases does, again, part of the intent here was just to underline and emphasize it.

One point you make, and I think I understand but it deals with the question that Mr Malkowski put to me, I take it you're saying that the counsellor or appropriate resource person has to be employed by the board, because under the freedom of information act, that is the only route whereby that person could receive information about the particular pupil. I guess one of the points that I was thinking of as well with this amendment was that it was an opportunity as well to use other resources within the community.

I just wanted to be clear. I may have misunderstood you, but when you say that, I think your wording was "shall ensure that a guidance counsellor or other appropriate resource person employed by the board," if that person were employed by the hospital or by the children's aid society or by community organizations, are you saying that under the freedom of information there would be then a problem in that person being involved in this? I may have misunderstood but I just want to be clear.

Ms Goldberg: It talks here about transferring

information that could be highly personal. It's not entirely clear what information is going to be passed on or who it will be passed on to. The freedom of information act protects private information of children and adults. There are certain exemptions in the freedom of information legislation that permit the transfer of personal information. One of those would be if it's an employee of the board who requires the information in the course of their duties.

That's not to say that it would be completely impossible to transfer the information to someone outside the board, but you would probably need the person's consent to do so first.

Mrs O'Neill: I'd like to speak in support of the motion. I'd like to read into the record, because we've been talking about this suspension for the afternoon almost, the conditions under which a pupil may be suspended are "persistent truancy, persistent opposition to authority, habitual neglect of duty, the wilful destruction of school property, the use of profane or improper language, or conduct injurious to the moral tone of the school or the physical or mental wellbeing of others in the school." Those are the conditions under which a pupil may be suspended and those are the limitations under which a pupil may be suspended.

We're then dealing with very serious situations. I do feel that there are some boards, some teachers, maybe even some principals and trustees, who may not be fulfilling the letter of the law the way we'd all wish them to because there's that in every kind of system. I think they are few, but they need to be encouraged to reach the maximum potential.

That's why we have this amendment. I like the suggestions because I do think they clarify. What I think we need to say here is that there are many resources and some of them are beyond the school. We all know, particularly in times of limited resources, that partnerships have to be developed, even partnerships between school boards. I have a very good example of that in my own community where in special education there are very deep partnerships. That's what this motion is all about.

Let's not hide under a bushel from parents, who maybe even have limited resources, both physical and financial, the secrets of the community. Let's make sure that the personnel of the board are hired with qualifications to know what the resources are in the community and that they're there to help bring those resources to the people who need them.

I think this is a very helpful amendment to a bill that we're trying to make better for the students.

Mr Hope: I was just listening to some of the comments, because when they go to suspension, everybody in their younger days always has fun with the teacher or something. You put a centrefold on the thing

and all that good stuff. That always happens.

Mrs O'Neill: Now you're telling us a bit about your past.

Mr Hope: No, no. I've seen it in a movie where they pulled the screen down and that's what happened, and the person got kicked out of school for that.

Mr Beer: This is a family committee show.

Mr Hope: When we were dealing with the motion, and I notice the changes that were made, the only part I didn't hear clearly was the beginning, and I'm just making this comment: If a pupil receives a maximum suspension or is suspended more than once during a school year, would that meet the first criteria? I'm trying to get the first segment of it.

Mr Beer: Sure. I know you were reviewing other amendments when I spoke, but what I was saying is that I'm quite prepared to accept that. I simply indicated the reason we had worded it this way was just if nothing else had happened after the first time, but I think the suggestions that have been made are most helpful and something along those lines with the other proposed changes that were made would be quite acceptable.

Mr Hope: The only reason I moved to the maximum, like I indicated, the definition of destruction of school property, the use of profanity, you've got to watch the limits around that stuff, because there is one day's or two days' suspension for a slip of the tongue. We all do that every so often. We're not all angels.

Mr Beer: Even in the Legislature.

Mr Hope: Yes, even in the Legislature.

Mrs O'Neill: Has God suspended you yet, Randy? That's what we want to know.

Mrs Cunningham: You survived well.

Mr Hope: Dianne, I talked to your school board and they told me everything.

I'm just careful about how broadly we use it. I listened to the concerns by the opposition, the extra burden on school boards and all that, and I wouldn't want to get into that problem. I'd suggest we deal with the maximum on the first one and then—

Mr Jim Wilson: It's a scary thought here. I actually agree with the latter sentence of Mr Hope.

With respect to my colleagues in the Liberal Party, I appreciate what they're trying to do, but I would agree, as Mr Hope said, that this additional section 2.2 seems to me to put another set of responsibilities on the school boards to in essence solve society's problems.

When I read Bill 4 as presented by the government, there of course is provision as part of the suspension process that immediately the parents or guardian, and the pupil's teachers and the board and appropriate private school attendance counsellors etc are notified in writing of the suspension. I think that suffices. I think this proposed Liberal amendment is problematic. While

its intent may be good, I think it's getting the school board itself involved in sorting out what perhaps families do best or guardians do best with their loved ones. Keep the board out of it.

Perhaps I'm wrong, but I would think that if a child is suspended more than once, if they have a guardian, a parent or somebody who loves them out there, and that person has been notified by the school, as part of being responsible citizens, somebody would be asking themselves the question why Johnny has been suspended a couple of times and try to work those things out without involving, in a legislative way, the school board itself.

1800

Secondly, I ask the question because, in many of the small schools in my riding, we don't have guidance counsellors or other appropriate resource persons to review these things. You get into the grade schools, and we certainly don't have them. It's the principal, and the principal's already involved in sending out the notice.

Generally, these things are better left without government involvement. Once you tell neighbour how to treat neighbour and counsellor how to treat student, you're erecting barriers, you've got Big Brother in there. All responsible principals, which is every principal I've ever met, takes, as Mrs O'Neill said earlier, a suspension very seriously and tries to look at the root cause.

I don't support the amendment because I don't think we need to put a mandatory provision in here that the school board has to necessarily get involved in the way that's suggested.

Mr Beer: Perhaps I might just respond, because I think if in fact what this were to do was what Mr Wilson has said, I would agree. I think the key words here are simply that the board and that resource person or guidance counsellor—that can cover anybody, and I quite recognize that in smaller schools it might well be that the appropriate person is the principal. But note that the verbs here are, "reviews the circumstances and informs the pupil and the pupil's parents or guardian."

I think one of the things is that there are a lot of parents today who simply don't know what resources are there, and clearly what is intended here is it may even be the classroom teacher who is simply saying, "Look, here is what we think that Sally or Johnny might need, and are you aware of these resources that are there?"

I appreciate that this is a bit unusual in the sense that, wouldn't this be the sort of thing that would happen, but I think that in some cases it doesn't, and I think is an indication to parents that that sort of support is there.

I'm just struck by the number of parents in our communities who don't know what services are available or how to access them, and this is providing a kind of friend at court who will at least take the time to sit down and talk to them. If they choose not to use those

services, there's nothing here that would force them to do so, and I think the board's obligation is simply one of reviewing and informing.

The Vice-Chair: Mr Beer, could you clarify the wording of your amendment, please? Is there any change to the printed form?

Mr Beer: I believe there is now, between the number of people who were scribbling some changes. Let me try this and Mr Hope and others can help out.

"If a pupil is suspended, the board shall," and I think the suggestion was that if—help me here, Mr Hope—"if a pupil," you had, "is suspended for the maximum"—

Mr Hope: "If a pupil receives maximum suspension or is suspended more than once during the school year."

Mr Beer: "The board shall ensure that a guidance counsellor or other appropriate resource person reviews the circumstances"—

Mrs O'Neill: No, it's "employed by the board."

Mr Beer: "That a guidance counsellor or other appropriate resource person employed by the board," and then would the rest remain the same or was there another—

Mrs O'Neill: You put another one in after "guardian."

Mr Beer: "Where the pupil is an adult."

The Vice-Chair: I thought it was "not an adult."

Mr Hope: "Where the pupil is not an adult."

Mr Beer: Can somebody read that all back?

Mr Doug Beecroft: Can I make an attempt to consolidate all of that?

"If a pupil is suspended for the maximum period allowed under subsection 1.1 or is suspended more than once during a school year, the board shall ensure that a guidance counsellor or other appropriate resource person employed by the board reviews the circumstances of the suspensions and informs the pupil, and if the pupil is less than 18 years of age, the pupil's parent or guardian, of services that are available from the board or elsewhere in the community to assist the pupil."

Is that the gist of it?

Mrs O'Neill: That's it.

The Vice-Chair: Are we agreed that is the wording of the amendment before us?

Ms Goldberg: The rest of the act never refers actually to the age of 18; it only refers to the pupil being an adult or not being an adult.

Mr Beecroft: Under the Age of Majority and Accountability Act, you become an adult at age 18—

Ms Goldberg: Yes, that's right.

Mr Beecroft: —and there are references to the age of 18 throughout the Education Act. They're usually in places like whether you can vote in an election, whether you can run as a member of a board and things like

that.

The Vice-Chair: Does counsel agree with counsel?

Ms Goldberg: I won't disagree. I would just feel that because the rest of that section, when it speaks about informing the parent of anything that has to do with a suspension or an expulsion, it uses the language, I believe, of where the pupil is—let me find it—"where the pupil is an adult" is the language that's used here in the rest of the section.

Mr Beecroft: Can you point to which provision you're looking at?

Ms Goldberg: Well, as an example, I'm looking at subsection 23(2). That talks about the appeal.

The Vice-Chair: Could this be considered as a housekeeping item that we don't need clarified at this time?

Mr Hope: Well, we have the intent.

The Vice-Chair: Yes.

Mrs O'Neill: I think the preference is from the council from the ministry.

Mr Jim Wilson: I just wonder if Mr Beer has considered—if I were a union negotiator, and I saw this—upon first reading, the first thing that actually came into my mind was, "We may need more people to do this," because "shall" is such a strong word, and given the small school I came from, it's another obligation in a principal's 12-hour day, or whoever's going to do this. Hopefully, suspensions aren't too frequent, but I can see boards saying, "What are the resource implications here?" If it's another obligation on us, you know, there are questions of resources and people's time, and I just wonder if anybody's thought that through.

Mr Beer: It seems to me that again the key thing, Mr Wilson, is with the amendments around the nature of the suspension and also again those verbs "reviews" and "informs," that in a smaller school that person could well be the pupil's own classroom teacher. I think there are a broad range of people who might be asked to do that, and it's simply someone who is in a position to review the circumstances and then inform those most affected. I don't see that it becomes an onerous responsibility in terms of time or employees. I appreciate the point, but I don't see that as being a problem here.

Mr Jim Wilson: What happens if they don't do it? Informing can be onerous, especially when you're talking about community resources. We go through this in the health field, as you know, and I know that's where your intent comes from, from the Children First and that line of thinking. It's hard to disagree with the principle, but the fact of the matter is I just don't like to see legislation where there are more obligations built in than the original intent of the bill. Informing can take some time and it does take resources. Look at the community lists we have in our own riding offices with respect to community services. There are hundreds.

When you have "shall"—and I think Mr Hope informs me his wording was a little milder than that. I've seen these things, and I'm sure you have, Mr Beer—you've seen these things start off as a well-intended clause which later becomes a major profession.

I'd like to hear from the parliamentary assistant. I mean, are we just arguing for the sake of arguing here, or is the government serious about adopting something similar to what Mr Beer has proposed? I don't want to hit my head against the wall here. If that's the case, my suggestion would be that we go for the watered-down version rather than the "shall" version, if that's possible.

Mr Martin: My sense is that the government is—and it's my personal feeling that it's the least we can do for these kids.

Mrs O'Neill: Mr Chairman, I have difficulty with Mr Wilson's concerns now that we have the motion amended by the government because, really, in my experience, a maximum suspension in a board—and I was with a board that had about 35,000 pupils—would happen about three times a year.

It's true that I haven't been there since 1986—maybe it's up, maybe it's even tripled—but we're talking about a board of 35,000 pupils. Some boards may never have this. They may never, ever go to maximum suspension, particularly in a small school because there are so many different resources in a small school and it's just much more of a family environment.

1810

I do feel that if schools haven't got the list that you've got in your office and I have in mine, then they're not part of that community the way they should be. If this encourages the odd school out there—and I would suggest they're very few—to have a list that every teacher in the school has access to and who invites those people in to speak to the staff and all those other things, then I think there's something wrong with a very important link and I think the school's a hub.

The Vice-Chair: Mr Beecroft, did you wish to respond to the disagreement regarding the wording?

Mr Beecroft: I'm not sure that I understand the point that Ms Goldberg is making.

The Vice-Chair: Do you wish to confer?

Mr Beecroft: If the committee is prepared to stand it down for five minutes, or we can settle it right now.

Mr O'Connor: I was hoping that given the time of day and that there seem to be some difficulties around this, the legalese, maybe we should just stand this one down and then allow counsel from the ministry to consult with legislative counsel to make sure that we get the intent here right without making it too onerous, as Mr Wilson has pointed out. I think the amendment is worthwhile and it's worth pursuing to make sure that we do it in a correct fashion so that we don't make things too onerous.

Mr Malkowski: Can we then agree to stand this down, please?

Mrs O'Neill: May I suggest then that we have come to so much agreement on this—I think there is almost unanimous agreement—that the counsel should work on this tonight and should have the wording for us tomorrow as we begin. Then we don't have to go through all the discussions again.

Interjection: Monday.

Mrs O'Neill: I mean Monday, the next time we meet. Really, that's the condition under which I'd like to stand it down. I don't want to go through this whole discussion again with somebody new who may be subbed into the committee that day or whatever. So let's try and get the wording and start with it the next day.

Mr Jim Wilson: I would agree with Mrs O'Neill, and indicate that it is well past 6 of the clock.

The Vice-Chair: Is it agreed that this amendment be stood down at this time? Agreed.

Mr Hope: It's just that there's been so much cooperation that's going on here and we're moving diligently through this piece of legislation. I was just trying to be helpful here. I'm trying to help a Liberal motion go through and a Conservative motion go through.

I would suggest, as you know today is the last day of this committee according to the original motion, that we make a request to the House leaders that this committee resume Monday, whatever the date may be, with the intent—and I say intent—to complete clause-by-clause on that Monday.

If I may speak to that, we have to request the House leaders. First of all, we don't know if the House is sitting. If the House is sitting, it has to be through the consent of the House leaders for this committee to continue. I also make sure that the intent to complete this bill is put forward, and I just put that forward and then I would like to speak to the intent aspect.

The Vice-Chair: Moved by Mr Hope. Discussion?

Mr Jim Wilson: Speaking on behalf of my caucus, certainly the intent would be to finish on Monday. That's on the record. I think that while we were off to a bit of a slow start, we did touch, even though they're relatively small amendments, some large areas like capital funding. Then when we get back to the junior kindergarten section, for example, I don't think there will be much need to repeat those arguments.

I would like to say with respect to Monday that it would be helpful if the parliamentary assistant could have a little more information prepared for this committee with respect to capital funding and the new funding system under the crown corporation, because of course it will be raised again on Monday. It would be a lot easier if we had some of our questions answered.

Mr Beer: To respond to Mr Hope, I think we all agree with the intent he has set out. As Mr Wilson has said, while we have taken time on a couple of sections, I think it has been useful and the spirit of cooperation has been evident.

I also understand that in terms of the hard-to-serve provision, the government is trying to look at some possible avenues there, and this would provide more time for perhaps a proposed change. I appreciate that we don't exactly know what our future will be, but the likelihood is that we'll be here Monday, so we could deal with it at that time.

Mr Hope: There are a couple of things. I like it when things move on. Today, we went past 6 of the clock. Would that still be the intent? I guess I raise it to the opposition. Say we've only got one or two clauses left to do, we're going to complete it, right? We're not going to move into Tuesday? I'd hate to go back to the House leaders on Monday and ask for Tuesday. I just pose those questions.

Let's put the cards on the table for the House leaders to deal with of exactly what we need. If it is the intent to complete on Monday but that the possibility exists of sitting late or that Tuesday may be required, then let's put those forward to the House leaders now so they can deal with them appropriately, but I really firmly would like to stick with the intent to finish Monday. I only pose that to you for a word of thought, that's all.

Mr Jim Wilson: Certainly, the intent is to finish at 6 o'clock on Monday. Perhaps the government will tell us: Are we doing votes on Monday that might delay us and we won't get started at 3:30? You may want to, in discussion with your House leader, indicate that we have a good two and a half hours at least of debate to proceed and that we want to get started as soon as orders of the day are called. Hopefully, they will be called shortly after 3 o'clock and then we will get done by 6. I'm fairly confident of that.

Mr Malkowski: I just want to clarify technically on a question to the clerk. Do we need to have a motion to extend Monday into the time? I don't know how we do this with the House leaders.

The Vice-Chair: We do have a motion on the floor. Do you wish to have it repeated?

Mr Malkowski: No, that's fine.

Mr Beer: There is a motion before the House. We can't extend ourselves without the House deciding to sit beyond Thursday. I think we're working on the assumption that, one way or another, that motion will go forward, and after what will undoubtedly be an interesting and fascinating debate, we could all find ourselves here next Monday finishing this bill.

The Vice-Chair: Shall the motion moved by Mr Hope requesting the House leaders be carried? Do you want it read?

Mr Jim Wilson: Yes.

Clerk pro tem (Ms Lynn Mellor): Mr Hope moves that a request be made to the House leaders that the committee be allowed to sit on Monday with the intent to complete clause-by-clause on Monday.

The Vice-Chair: Shall the motion carry? Carried.

Mrs O'Neill: Mr Chair, I just want to say that as to the part Mr Hope's going to be helpful on, with the corrections, I was distracted at that time. I have worked in Education and in corrections as well, and I think it will be very important to find out from the ministry of corrections the legislation that supersedes the Education Act within correctional institutions, because there is superlegislation that protects the staff, whether they be teachers from a school board or from the institution itself. We have to have both pieces to know what we're talking about here.

Secondly, I am not very happy with the response I've got on the American sign language. I hope we will get more information about what the government's intending to do on "where numbers warrant" and "qualified teachers." I would like to know. When we passed legislation previously "where numbers warrant," we always had an idea whether it was 15, 20, 25. I know that in this case, because we're talking about special education, it might be three, but surely we should get an idea. And as to "qualified teachers," will this subject be offered to the faculties of education? Have there been requests for the faculties to offer this? I guess what I want to know is, can this happen? I don't like false hopes being built up, and I don't like false concerns or fears of parents being out there. That's why I want to know, and I'd like to have a better answer, if we could possibly have it, before this bill is passed.

Mr Malkowski: I just want to respond to Ms O'Neill. Right now within the system we already have resources available at the provincial schools, but the point is that we want to permit school boards, if someone comes forward and if it's appropriate, that they be enabled to do that. That is the intention behind this, that ASL become available as an option as others are options.

Mrs O'Neill: I guess I need to know more about the numbers being warranted. If it's going to be offered now, we have to have more resources to supply what I would consider are new requests from school boards, and definitely from parents. So let's get the faculties involved; let's give teachers the option at the faculties to study ASL. That's the kind of thing I need to know.

The committee adjourned at 1821.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Malkowski, Gary (York East/-Est ND) for Mr Owens
Marland, Margaret (Mississauga South/-Sud PC) for Mrs Cunningham
Mathysen, Irene (Middlesex ND) for Mr Hope

Also taking part / Autres participants et participantes:

Goldberg, Deborah, legal counsel, Ministry of Education and Training
Lindhout, Julie, director, legislation branch, Ministry of Education and Training
Riley, Michael, legal counsel, Ministry of Education and Training

Clerks pro tem / Greffières par intérim:

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Pajeska, Donna

Staff / Personnel: Beecroft, Doug, legislative counsel

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Lundi 28 juin 1993

Standing committee on social development

Education Statute Law
Amendment Act, 1993

Comité permanent des affaires sociales

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation



Chair: Charles Beer
Clerk pro tem: Donna Pajeska

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 28 June 1993

The committee met at 1530 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Resuming consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Good afternoon. The standing committee on social development resumes meeting on Bill 4, An Act to amend certain Acts relating to Education. We're in clause-by-clause.

Before proceeding, Mr Martin has requested some time to respond to requests for information on certain items.

Mr Tony Martin (Sault Ste Marie): I believe it was Mr Wilson asked for some clarification on the way that we're going to—

Mr Randy R. Hope (Chatham-Kent): Raise the volume up. I can't hear you.

Mr Martin: Sorry, Mr Hope. I believe it was Mr Wilson who asked for some clarification on the capital allocation re junior kindergarten, so I've just got some information that I would like to share with the committee. I'm not sure if it will be sufficient to satisfy the request, but everybody has a copy of it. Just for the record I'll run through it and then if anybody has any questions, we can get into it.

Funds allocated for junior kindergarten purposes for 1993-94 and onward will be provided to school boards as loans at the time of financing, and annual grants to pay off the principal and interest on these loans will be provided over a 20-year period. Under the capital grant funding mechanism, school boards have been allocated amounts in respect of approved capital projects for the provision of accommodation for junior kindergarten pupils. The estimated grant amount is based on the estimated approved cost multiplied by the board's rate of grant for recognized extraordinary expenditure.

Boards will continue to follow the same procedure for receiving capital funds from the ministry. Under the loan-based financing approach, the amount of the grant will be provided to a school board by the Ontario Financing Authority in the form of a loan for which the board will issue a debenture. The Ministry of Education and Training will pay to the school board the amount of principal and interest payments as they become due on the debentures issued for this purpose by the school boards.

School boards will continue to receive the same

amount of resources under the loan-based approach as under the capital grant method. However, the government's expenditure for capital projects will be spread over the life of the facility, rather than up front.

One further clarification that's not in this paper is that the money that's left in the capital account specifically for junior kindergarten—we had said last week that it would be almost cash handed out to do those capital projects. That money will be dealt with under the same process we we're laying out here for all capital projects from now on.

The Vice-Chair: Did you have other items you wanted to comment on?

Mr Martin: Perhaps we can answer questions on that and then go on to something else.

The Vice-Chair: Fine.

Mrs Dianne Cunningham (London North): So there isn't money in the bank to sort of give to boards in lump sum capital.

Mr Martin: There is money.

Mrs Cunningham: There's money to lend to boards.

Mr Martin: Yes, there's money that will be given out, the amounts as stated, but it will be done in the manner laid out in what I just read into the record.

Mrs Cunningham: Very different than passing capital lump sum payments to school boards, as in the past, and certainly the intent when the Liberals put this into place some five years ago—different than capital out of current, which was what was intended at the very beginning.

Mr Martin: Perhaps if Theo would expound on it a little bit, it might become a little bit less—

Mr Theo Grootenboer: The government's decision to move to move to loan-based financing has been one that was taken as a treasury initiative; it's not an Education initiative. So if you have questions around the switch to loan-based from capital grants, I think they should be directed to the Ministry of Finance.

But I do have some papers here that give the rationale behind why the government's converting capital grants to loans. I can give you this: that the government's decision to do so is twofold. Basically, the first is that the capital projects will be expensed over the life of the facility rather than in the first year when the money is actually required, and the other component of the decision was that the government's capital financing approach has been changed in order to meet the institutions' capital needs as much as possible in light of the current fiscal realities existing in the province. I take

this to mean that in the absence of a change to loan-based financing, perhaps there wouldn't be the same amount of capital funds available as there would have been without that.

The Vice-Chair: Are you continuing?

Mrs Cunningham: Just so I can sum up, I certainly believe that there wouldn't be, and I think that the backing by the government of the province of Ontario is very important.

When we asked the question last week, it was our understanding that there was a pot of money. I didn't understand that it was the—certainly it never had been, unless it's happened in the last couple of years, for the child care facilities.

I have to tell you too, Mr Eddy, and you know some of our reputations well, it's always been the intent, I think, of elected representatives not to put the burden on taxpayers to come. I came from a school board, and when I came to this Legislative Assembly, we owed no money. We were penalized for that in many ways. We didn't have bridge financing. The only thing we did with debentures was our education centre. For the other schools we did capital out of current with the help of provincial governments.

The money that was put aside for the new school-based child care facilities on new secondary schools was a policy in the early years by the Liberal government. I know; I helped as a consultant—a private sector consultant, I might add. The intent there was to give the money up front so that school boards that weren't in the business of making loans wouldn't have to make a loan.

In fact, these are loans; there's no other way of saying it. We're borrowing money. Debenturing is borrowing money; it's not new. I think, if I'm correct, what we've just been advised is that it's easier to borrow money with this government corporation than it would be if we didn't have the government corporation. These are tough times; I understand that. But I have to say that during booming economic times, when we had the money, maybe it was easier to forward the capital, but there was no long-term thinking in those days, because everybody knew that was just the beginning of child care in the schools.

Now we have a government that's trying to legislate it even more. School boards responsibly recognize that they can't afford it, and neither can the province of Ontario. It's all borrowed money.

Mrs Yvonne O'Neill (Ottawa-Rideau): I have to ask the ministry officials a question, because I got an answer last week and it stated, "The province has made available \$95 million in capital funds for junior kindergarten over a period of five years, 1990 to 1994, and \$46.8 million remain uncommitted." Where is that money? Because I think I've just been told that everything from now on is debentured. I'm sure this is not

the only uncommitted fund in capital, so have we discovered now another monster slush fund that's gone into the general revenue fund from the Ministry of Education? If so, I'd like to know—I'll ask only this specific question at this time: Where is the \$46.8 million? Is it there to be resourced, or does every single kindergarten project from now have to go to the financing authority?

1540

The Vice-Chair: Mr Martin, do you wish to respond, or whom do you wish to respond? Please give your name and position for Hansard.

Mr Grootenboer: My name is Theo Grootenboer. I'm senior manager in the school business and finance branch in the Ministry of Education and Training.

The question, as I understand it, relates more to the financing of capital rather than to the availability of an allocation. The answer that I will give is that the government's decision to move to a loan-based financing scheme for the provincial share component of capital projects doesn't have any negative impact on the junior kindergarten capital funding. Commitments for junior kindergarten facilities previously allocated for 1993-94 and onward will be provided to school boards as loans at the time of financing, and annual grants to pay off the principal and interest on these loans will be made available over the term of the loan.

With respect to the \$46 million of the uncommitted funds that were made available for junior kindergarten, the Ministry of Education and Training still has that commitment on its books and that is still available for school boards to be accessed.

Mrs O'Neill: But it will be accessed as a loan rather than as a grant.

Mr Grootenboer: It will be available for school boards to be accessed through the new financing scheme when that financing scheme has actually been approved. That still is subject to the Legislature.

Mrs O'Neill: This is a very interesting discovery we've made this afternoon.

Mr Charles Beer (York North): Just simply to make a point, I appreciate the information that ministry officials have provided us and also the statement the parliamentary assistant has made. Without going back over the discussion we had last week on our amendment with respect to capital, I would simply say, while this is interesting information, it doesn't change the substance of that discussion, and we would still have preferred to have our amendment passed.

The Vice-Chair: Mr Martin, did you have other things to report?

Mr Martin: Yes. On the question of American sign language, langue des signes québécois and "where numbers warrant," the legislation is enabling legislation, and the regulation will deal with the definition of

"where numbers warrant." While the exact numbers have yet to be worked out, it will be less than 10 pupils.

The regulation will also deal with qualified teachers. At the present time, York University offers a program in teaching teachers ASL. As this unfolds, the ministry will consult, where appropriate, on the regulation.

Mrs O'Neill: May I just ask, because that was my question, Mr Martin, would you repeat what you said about less than 10 pupils? I'm sorry, I missed that part.

Mr Martin: Sure. The regulation would deal with the definition of "where numbers warrant." While the exact numbers have yet to be worked out, it will be less than 10 pupils.

Mrs O'Neill: Ten pupils per school board? Ten pupils per school? Ten pupils per what?

Mr Martin: Ten pupils per, I guess, school board where this can be provided.

Mrs O'Neill: Is that definitive? Is it a school board? This is very hard for the boards in this province to understand. This legislation affects them. They ask me about it because they know I'm on this committee, and I don't have an answer for them. There's a lot of difference here between a district and a school board and a school, or even a family of schools.

Mr Martin: Again, I'll turn it over to one of our officials to perhaps be a bit more clear on that for you.

Mr Peter Ferren: I'm Peter Ferren, education officer in the special education and provincial schools branch.

When we're talking about school boards, we're talking about congregated classes, so where the number—whatever that number is would be fewer than 10—that number within a school board is available and they request it, then the program would be offered. So you would be congregating. Depending upon the size of the boards, you may be congregating students in one location.

Mrs O'Neill: Or you may be asking coterminous boards to congregate students. Is that another possibility?

Mr Ferren: That's another possibility.

Mr Gary Malkowski (York East): I think it would be helpful to remember the presentation from the Ontario school board association. They said they didn't have a problem with this in the legislation, so I think that was just important to note.

The Vice-Chair: Mr Martin, do you have anything else to put forth at this time?

Mr Martin: No, that was all.

The Vice-Chair: As agreed then, we'll proceed to resume clause-by-clause.

Mr Hope: I believe the first one we stood down was the Liberal. Was it yours, Charles, that we stood down?

Mr Beer: That was actually one of the questions. I'm not sure, because I don't believe we'd finished with the Conservative amendment, and then we got to ours. I'm quite happy to go ahead with ours. We're ready to put forward the amended, amended, amended, amended, amended version of our original amendment.

Mr Hope: I just think it would provide us the opportunity to do some housekeeping, and then we don't have to go back. Let's clean it up now while we have the opportunity.

Mr Beer: It's late spring, but cleanup is always in order.

Mr Hope: Neatness is perfect.

The Vice-Chair: Have we not done subsection 12(1)?

Mrs Cunningham: What section are we on, Charles?

Mr Beer: It's section 12. We were doing subsection 12(2) at the end of last week. Am I right, though? We had not completed all of the Conservative—we had completed, sorry. We had.

The Vice-Chair: Yes. I'm very clear on it. That's what I was speaking to and that's the number I came up with. However, if other people wish to take over, that's fine with me. We're at subsection 12(2), I understand.

Mr Beer: Which is our amendment. Is that right?

Mrs O'Neill: We were waiting for a rewording from legislative counsel.

Mr Beer: Shall I go ahead?

The Vice-Chair: No, that was the second one. It was also stood down, but the PC amendments were stood down for information, I believe, from Mr Martin and the officials from the ministry.

Mr Martin: Yes. It was worded that this was to be worked out between the two legal counsels.

Mrs O'Neill: The two legal counsels were to work out the wording, which we have now.

The Vice-Chair: That was subsections 12(2), (3) and (4).

Mr Hope: I didn't mean to make this confusing. All I was trying to do was a part of a conversation that was just completed. I thought we had finished with Charles's and then we'd go to Dianne's.

The Vice-Chair: It's fine to have conversation, but I was asked to chair it. I guess that doesn't need to happen, but I was proceeding. I thought I was straight on it and those are the numbers I was going to use.

Mr Hope: No problem.

The Chair: However, I understood that you'd want to speak to the previous item. That's why I recognized you.

Mr Hope: No, no.

The Chair: So are we all right? We're all on the

same section, I think. Are we to proceed?

Mr Hope: We're in your honourable hands. Go ahead.

Mrs O'Neill: Could you name the section we're at, Mr Chairman.

Mrs Cunningham: What is the motion we're dealing with and what are we changing?

The Vice-Chair: There was a motion by Mr Wilson, as I understood it, that was stood down and it was amendments to subsections 12(2), (3) and (4).

Mrs Cunningham: That's right.

The Vice-Chair: It's the letter-size sheet with amendments. It was stood down for additional information and we were to get that back and then deal with the proposed amendments. Is there additional information you want to report on it, Mr Martin?

Mr Martin: I'm led to believe that what was agreed on as—

Ms Julie Lindhout: I can speak to it.

Mr Martin: Yes. Go ahead.

Ms Lindhout: We promised to consult with a number of people and with some school boards on the wording of the motion, "injurious to other pupils or to teachers or board employees." In our consultation we were told that it might be better to simply say "to other pupils or to other persons," because then it would include volunteers and any other people who might be in the school for a particular reason. This would be an amendment that wouldn't present any problems to school boards or to others.

The Vice-Chair: Was that the only amendment we were discussing there? Ms Cunningham, the proposed amendment came from Mr Wilson.

Mrs Cunningham: I'm sorry, I'm not following. Where would we put these words? Are we looking at the PC motion right now?

The Vice-Chair: Yes.

Mrs Cunningham: Under subsections 12(2), (3) and (4)?

The Vice-Chair: Yes.

Mrs Cunningham: "Teachers or board employees"? You're saying "other persons"?

The Vice-Chair: Expulsion of pupils, subsection (3).

Mrs Cunningham: Thanks. Okay.

The Vice-Chair: "To other pupils or to other persons." Is that correct? Or "board employees"?

Ms Lindhout: You don't need that.

The Vice-Chair: We don't need that.

1550

Mr Mike Reilly: Mike Reilly. I'm with the legislative counsel. I believe it was "to other pupils or persons."

Ms Lindhout: "Or persons," yes.

Mr Riley: My understanding of the words—and this is the amendment to subsection (3). It would read, "that the pupil's presence is injurious to other pupils or persons."

The Vice-Chair: Are you agreed, Mrs Cunningham? That change in the proposed amendment is acceptable?

Mrs Cunningham: Yes, it's the intent of what we had submitted.

The Vice-Chair: Thank you. Now the amendments were moved. Do you wish it read at this time or is everyone clear on the amendments that we have?

Mr Hope: I'd like the whole language, for the record, which we are going to be voting on and adopting. I think it's appropriate that the record reflect that, because we all have scratched copies. I want to make sure that my scratched copy equals what's being put across on to the record.

The Vice-Chair: Would you read it, please? Mrs Cunningham is moving this motion.

Mrs Cunningham: Do you want me to move it?

The Vice-Chair: Please.

Mrs Cunningham: Do you want me to read the whole thing?

The Vice-Chair: Please.

Mrs Cunningham: I move that subsection 12(2) of the bill be struck out and the following substituted:

"(2) Section 23 of the act is amended by adding the following subsection:

"Effect of appeal

"(2.1) An appeal under subsection (2) does not stay the suspension and, if the suspension expires before the appeal is determined, the board shall determine whether the suspension should be confirmed or whether the record of the suspension should be removed or modified.

"(3) Subsection 23(3) of the act is amended by striking out the portion before clause (a) and substituting the following"—and this is where we're finding the change—

"Expulsion of pupil

"(3) A board may expel a pupil from its schools on the ground that the pupil's conduct is so refractory that the pupil's presence is injurious to pupils or to other persons." Did I get that right?

Mr Riley: I don't think so. I think it should be, "to other pupils or persons."

Mrs Cunningham: Leave the words "other pupils or to—

Mr Riley: —"or persons."

Mrs Cunningham: "Or persons." All right. That's fine. I'm taking my direction from the member for Oxford.

Interjections: No, no.

Mrs Cunningham: I mean Chatham-Kent. How could I have made a mistake like that?

"(4) Section 23 of the act is amended by adding the following subsection:

"Committee to perform board functions

"(6) The board, by resolution, may direct that the powers and duties of the board under subsections (2) to (5) shall be exercised and performed by a committee of at least three members of the board named in the resolution or designated from time to time in accordance with the resolution."

It's quite a hefty one here. I think what we were trying to do with that change was to meet with the concerns as presented to us by the OSSTF, the Ontario Secondary School Teachers' Federation. As I said before, it's in the front lines and it's telling us that a suspension can be imposed for conduct injurious to the physical or mental wellbeing of others in the school. "Others" can include pupils, teachers or support employees. So I hope that by putting forward this word, just "persons," we're getting that intent.

Is there any problem with the intent, Mr Chairman? I mean, is the administration agreeing with us with regard to the intent?

The Vice-Chair: Mr Martin, do you wish to respond?

Mr Martin: Yes. We certainly agree with you and we think this will cover it. I think it's an amendment worth making.

The Vice-Chair: Anything further, Mrs Cunningham, to the motion?

Mrs Cunningham: No, as long as the intent is in the record and that we know we're not excluding employees of the board. I just wondered if there was a legal reason for doing that.

Mr Riley: I think the idea of using "persons" was just to be as comprehensive as possible and nothing more. We thought that with the reference to teachers and board employees, there was a possible case of a visitor to the school or somebody who might be neither teacher nor board employee who might none the less be in the school and we just use the word "persons" in order to be comprehensive.

Mrs Cunningham: It's refreshing to get from the administration a more inclusive amendment. Thank you very much.

Mr Beer: Just for the record, we will be supporting the amendment.

The Vice-Chair: Anyone else? Mr Hope?

Mr Hope: I was our pleasure to work with the member opposite on this resolution.

Mrs Cunningham: You mucked it up, though, didn't you, Randy?

The Vice-Chair: Any other comments or discussion? Mr Malkowski, please.

Mr Malkowski: Thank you, Miss Cunningham, for your cooperation.

Mrs Cunningham: Aha. It's my turn to be cooperative today. I got the message. Thank you, Mr Malkowski.

The Vice-Chair: Any other comments or discussion? If not, all in favour of the motion to amend at this time? Opposed? Carried.

Did you want to speak, Mr Hope?

Mr Hope: No.

The Vice-Chair: That's carried. The next was a proposed motion regarding subsection 12(2) of the bill by Mr Beer, I believe, and that was stood down.

Mr Beer: Again, this is one where there was a lot of suggestion and advice from many members. Perhaps I'll just first read it. I don't know that we need a long discussion, because we had one last week, but if I could move it:

"Subsection 12(2) of the bill (subsection 23(2.2) of the Education Act)"

I move that subsection 12(2) of the bill be amended by adding the following subsection to section 23 of the Education Act:

"Review of suspensions

"(2.2) If a pupil is suspended for the maximum period allowed under subsection (1.1) or is suspended more than once during a school year, the board shall ensure that a guidance counsellor or other appropriate resource person employed by the board,

"(a) reviews the circumstances of the suspension or suspensions, as the case may be, and

"(b) informs the pupil and, if the pupil is not an adult, the pupil's parent or guardian, of services that are available from the board or elsewhere in the community to assist the pupil."

The Vice-Chair: Mr Beer, before you proceed, as this is a replacement motion, would you withdraw the previous one?

Mr Beer: Sorry. I will withdraw the previous motion.

The Vice-Chair: Thank you. Proceed.

Mr Beer: Again, this was simply a fall-back to ensure that information about assistance that would help the pupil will be made available and that somebody will ensure that happens. I think we understand and would recognize that in many instances that would happen at the start, when the process begins, but what this sets out is really, where it's the maximum period or if someone is suspended more than once, that we know this action would take place. It is with that intent that it is put forward.

The Vice-Chair: Mr Martin, you have asked to respond.

Mr Martin: Yes. The ministry did a bit of consulting since the last time we met and I believe Mr Riley has something to add.

Mr Riley: The upshot of our discussions was that we were going to suggest that just before clause (b), or at the beginning, the words "where appropriate" be added, so that it would read, "and, (b) where appropriate, informs the pupil and, if the pupil is not an adult," the idea being that, depending on the nature of the circumstances, there may not be information that is appropriate to the situation and we would not want anything to turn on whether the information was given or not in terms of legal consequences. That's my understanding.

Mr Beer: I view that as a friendly amendment. I'm quite happy to accept it.

Mr Hope: I think it's important, as we see how often laws are changed around education, that just in case, if these pieces of bills do stick around, the intent is that we cannot force the child to participate in the programs; we can only use it as an advisory. So those who check through the archives, who try to find out what this committee meant by this definition, would be clear in understanding that neither the board nor the guidance counsellor could ever force a child to participate in the program. It's only acting as a guidance process.

Mr Beer: If I might, I would accept what Mr Hope says and I think, again, the verbs in question are "reviews," "informs." Clearly it is up to the student and/or his or her parents or guardians as to whether anything follows from that.

The Vice-Chair: That completes discussion. The motion, then, to subsection 12(2) of the bill with the change in wording is now before the committee. All in favour? Opposed? Carried.

Shall section 12, as amended, carry? Carried.

Shall section 13 carry? Agreed? Thank you.

Section 14.

1600

Mrs Cunningham: We have an amendment, Chair.

Mr Beer: We have an amendment as well.

Mrs Cunningham: Mr Chairman, I'll just put this on the record. I'm sure you're not surprised to see it.

I move that subsections 14(2) and (3) of the bill be struck out.

I think it's fairly well known that we're not in favour of the intent of expanding the junior kindergarten program to make it compulsory by September 1, 1997. I know that everybody would like to see the opportunities be equal across the province, but there are many boards that have chosen not to buy into a junior kinder-

garten program in their school boards and they don't want this mandatory legislation.

As a matter of fact, I think that during the last election almost all candidates stood on stages and said that if there wasn't the money to support programs, one shouldn't be mandating programs from Queen's Park.

I don't consider telling school boards that you've got money in a pot that they can borrow having the kind of money that we're talking about. We're talking about capital dollars that become part of the base. I think the intent here, that school boards go out and borrow money for programs that they don't need or want, is totally irresponsible.

We know that after August 31, 1994, school boards will be required to operate junior kindergartens and that the Lieutenant Governor in Council will have the power to allow a board to phase in the junior kindergarten requirement by September 1, 1997. I don't think this government will be the government of the day, so maybe we shouldn't worry about it, but unfortunately it does send that kind of tone.

The program directive was originally included in the April 1989 Liberal throne speech—I was here and heard it at the time—and in the 1989 budget the Treasurer of the day, Bob Nixon, had allocated \$194 million over five years for operating grants and \$100 million for related capital projects. We know this amount will not cover the full cost of implementation for the 19 boards that have chosen not to be part of this mandatory expansion of junior kindergarten in their school systems.

For those who are present—perhaps their boards may even be represented—there may be some changes. I certainly would like to be corrected. As we saw the list last, Brant county, Bruce, Durham, Haliburton, Halton, Huron county, Grey county, Manitoulin, Middlesex county, Norfolk, Peel, Perth county, Prince Edward county, Waterloo county, Wellington county, Wellington County Roman Catholic Separate School Board, Wentworth county and York region were the boards that had advised us recently that they were not going to implement junior kindergarten for next September, nor did they have an intent to do so in the future. In Muskoka I think they currently have junior kindergarten, but they had a motion that they would remove it in September 1993 because of funding.

The Wellington county board has advised us that it will cost \$9 million to \$10 million to implement junior kindergarten: \$5 million to \$6 million for 30 new classrooms and \$4.5 million in annual operating costs.

You can imagine the state of the taxpayers right now, given the discussions around the social contract, at the same time being concerned in Wellington county about having to implement a junior kindergarten program that they don't want.

The Ministry of Education and Training does offer

capital grants for junior kindergarten facilities and operating grants. However, this money comes from the total available for education in the province, which the ministry and the current government is in the process of drastically reducing. Those were the responses that people got in the mail from the minister. I have to tell you right now, that is not the kind of response they should be getting. You should be saying, "You can apply to us and we will assist you in debenturing for these projects."

The expenditure control plan will cost Durham \$11.5 million. The cost of junior kindergarten would be added on to that amount. These are programs that should not even be considered by the government of the province of Ontario during this period of time.

"The three-year phase-in process for the implementation of junior kindergarten does not promote equity of access and equity of opportunity for the children in the Durham Board of Education and I would like to emphasize the need to further explore the proposed requirement for phased-in implementation." This is a presentation by Durham.

The OPSBA position is that junior kindergarten not be mandatory, but left at the discretion of the board.

If we really believe in local autonomy, we'd better be listening to those local trustees who are representing their local school boards, especially in these times.

I don't know why I'm staring at you like this, Mr Eddy, because I know that you do believe in that.

The Vice-Chair: I am listening.

Mrs Cunningham: I know. It's better I look at you, I think.

Mr Hope: You can look at me, Dianne, if you want to.

The Vice-Chair: Mr Hope.

Mrs Cunningham: Actually, it was helpful looking at him last time. Maybe I will.

If the government members reject the amendment, in recognition of both space and resource limitations of many boards the ministry should acknowledge the need for flexibility in both implementation dates and strategies for kindergarten programs, particularly in regard to the use of early childhood education staff.

These are comments that were made during the public hearings, which were very limited, but it's always been my contention that we in Ontario have not looked at what's right and correct and appropriate for three-year-olds. We know that we would like to support families with programs—child care programs, early childhood education programs, education programs—but we've never come to a consensus around what's appropriate. Certainly, I believe the direction of the government is to move to a full-day child care program for three- and four-year-olds. There would be no other reason for

moving in this particular direction and making it mandatory.

I would say for families that what three-year-olds really need is probably an opportunity to have confidence in other adults. I mean, that's the first reason that your child leaves your family setting. If you're choosing one, you're choosing something where your child can relate to other adults, other than their own parents or their family members. I think it's a very big step for any family.

Many parents are looking towards having child care opportunities because they are working outside of the home and they need that kind of support. We know the trend in the last couple of years has been to move more to home-based child care, basically because of cost and because of the flexibility of the working hours of mothers and fathers. We also know that this isn't going to be the answer to any child care, but we're moving into a very expensive junior kindergarten program when parents are really looking for support for child care for their children.

I don't think that discussion has taken place and I'm not sure it will take place in the public consultations of the day. I really think the royal commission will probably be spending its time on the issues that are on the public agenda of the government, and those have to do with curriculum and standards and testing and capital. There probably won't be a lot of discussion around early childhood education, although I hope there will be.

Since the phase-in component is subject to regulation, the boards are anxious to review the regulations. They certainly understand the capacity of this government to move away from what they think is right for young people in their own communities. We all very much appreciate the fact that they have more votes than the rest of us. But in this regard, I would expect that the implementation date has been moved up since the Liberals were the first initiators of this policy.

I'm going to close by saying that I really don't believe this government will be around in 1997 anyway, so I think the boards will be taking that into consideration as they take a look at their phase-in.

Thank you for the opportunity.

1610

Mr Hope: I'm speaking against the amendment that's being put forward and I have a couple of comments I wish to talk about. When we talk about junior kindergarten, I'm a beneficiary of that program with my own two children. In Kent county, it's not a day care service, which a lot of people believe it to be; it is a very beneficial program. I've seen the growth of my two children go through that process. I believe it is something that should be implemented throughout the province.

When I hear the comments, people saying "Can we

afford it?" can we afford not to these days? As we talk about skill-added value in our education system, can we afford not to make sure a vital program around the institution of our school system is very important to the growth of our communities? When people bring up the cost, you have to balance the cost with preventive aspects or initial cost, which is always the startup cost.

I listen to the member for—what is it, London Centre, Dianne? Which area are you from?

Mrs Cunningham: London North, the former riding of John Roberts.

Mr Hope: I listen to the member for London North's comments about how this government won't be around in 1997. I beg to differ. But it would be very interesting, as we talk about child care, that the federal government that is currently there has abandoned its commitment to a national child care policy, or a national child care program, which is very important. Yes, there are women who are out there in the working world who are looking for valuable services also through child care or through junior kindergarten, but junior kindergarten is one that's determined by a parent. The parent has the option of a day care program or an education program, and I find that JK is a very educational program.

On this amendment that is being put forward by the Conservatives, I do not agree with it. I believe I've seen the beneficial aspects of it in my own community and also directly affecting my own family, because I guess I'm one of those individuals who sit in government who still have children of a young age and not grown up and married.

Mrs Cunningham: You're not grown up and married?

The Vice-Chair: Please continue, Mr Hope.

Mrs Cunningham: Oh, excuse me.

The Vice-Chair: You don't need to respond to that.

Mr Hope: I'm just grasping my air and staying away from it.

Mrs Cunningham: I missed the beginning of the sentence, that's all.

Mr Hope: If anything, I can say it's very important that we proceed with junior kindergarten, because what we are talking about is an education system that has to be one of a skill-added value. I find very ironic the member's comments when she, I know, agrees with me on the principles of apprenticeship and skill-added value education programs. In order to lead our children into a prosperous future and a prosperous job, we need to revamp our education system. I find it very difficult to move those who have a knack at an early age into a system that would accommodate them.

I will be voting against the Conservative motion. I notice the Liberals will have the same, so I will just

make my comments ditto to that.

Mr Beer: I'm not sure how we handle it procedurally, but as Mr Hope notes, we have an identical motion on the books as well.

I think there are just a couple of points to make here. One is that I find myself very much in agreement with the representative from the York region board who was here the other day, where I think junior kindergarten is a good thing. I've certainly seen programs that work. I think it can be effective. In terms of making it mandatory, school boards can still proceed to implement those programs and work it out with the ministry, but clearly the issue right now is a financial one. If we are to proceed with this program on a mandatory basis, how do we do that financially? In our view, that means that at this point in time it has to be left as an optional program.

Ms Cunningham noted, and I was looking as well at, the document put out by the public school boards' association, where at their last annual meeting they passed a resolution to petition the Minister of Education to make junior kindergarten an optional program. That was adopted.

In the June 18 issue of their Fast Reports, which is an information newsletter they send out, I was interested to see that there had been a meeting with the 17 member boards that have concerns around junior kindergarten. It was noted that ministry officials—and I'm quoting from their publication—"agreed to provide clarification in writing about capital and operating funds for junior kindergarten programs." There's going to be further discussion. I think all of that can be done in an optional and permissive mode, because I think it is appropriate that it be discussed and worked out locally.

We are supporting both the Conservative amendment and our amendment, because we feel at this time it is best to leave the program as optional and for the local boards to sort out their priorities, to come forward with their programs, to meet with the ministry and see what can be done. But by making it mandatory, it is placing an undue financial burden on school boards at this time.

Mr Martin: I just wanted to say that it's interesting to note that this initiative was in fact started by the previous government, which saw it as something necessary in the province and something valuable to be added to the education system. We have continued that, although we've tried to recognize the very difficult economic times that we're in. We've moved the date back and now we've allowed for a three-year implementation period of it, hoping that by the time some of these boards will in fact have to put this in place, the economy will have returned, there'll be more money and it won't be as difficult and indeed we will still be the government.

The one group that has been consistent through this

is the Ministry of Education and Training, the folks who stay as governments come and go, and perhaps Laury would like to say something to this.

Ms Laury Roy: Okay, thank you. I'm Laury Roy. I work with the curriculum policy development branch with the Ministry of Education, with responsibility for policy around junior kindergarten and kindergarten and also the greater enhancement of the coordination between child care and kindergarten and junior kindergarten programs.

It's true that I was here when the former government was here as well, and the research we've had on a number of investigations, through the early primary education project and through *To Herald A Child*, for the longest time has pointed to how critical these years are for young children. You will recall when a lot of work was done by the ministry on the failure to reduce the dropout rate. Those investigations began initially with looking at students who were in grade 9, and where their investigation led them was to grade 3, grade 1 and indeed to the very beginnings of school as being critical to prevent dropouts.

Certainly the research that governments have turned to in favour of these programs has been consistent in that it has pointed ever more to the critical importance of these years for future success for children, to the fact that four-year-olds are at a very critical stage in terms of their ability to develop language and problem-solving skills. It really is seen as being of fundamental importance to their success.

In terms of the development of child care and where the government will go vis-à-vis child care and kindergarten, the direction that has been received through all the consultations around the early years and child care has been that there has to be a greater partnership. I don't know that junior kindergarten and kindergarten are perceived, certainly not by many educators, as being synonymous with child care. There's definitely a cognitive agenda that is perhaps more aggressive, but the need to work in partnership with child care and to create a better program of child care and education I think is recognized and continues to be so.

Many of you are aware that the ministries of Education and Training and Community and Social Services are working as partners now to look at programs for junior kindergarten and kindergarten in relation to programs for child care within the total context of the child care reform.

Mr Martin: I think, having heard that, it even speaks more profoundly to the statement made by the member for Chatham-Kent, "Can we afford not to do this?," and that's important.

The other piece of this that's really important to stress as well, I think, is the question of equity across the province, equity of access, universality of access, to

all of the students in the province. It doesn't seem to me to be fair to have this kind of service available to students or children in one area and not in another.

Mr Beer: To be very brief, I just want to underline that our opposition to this part of the bill is to its mandatory nature. I said at the outset and would simply repeat that we support the development of junior kindergarten, but at this time, because of the financial and fiscal pressures on school boards and the cutbacks as a result of the expenditure controls, the social contract, the budget and other things that have happened, we believe it should be left the way it is in the act, which is that it is an option for boards and that that's the proper way to go at this time.

1620

Mrs Cunningham: I just want to make myself very clear. I don't really want to date myself, but I guess I have to. This is an area that I've studied for a long time. In fact, my degree is from the University of Michigan in early childhood education and I was part of the Head Start programs when they started in the States in the early 1960s. I'm a very strong proponent of early childhood education and I feel very strongly about it. The studies that went on in Ypsilanti, Michigan, and later throughout most of the United States with the Kennedy Head Start programs are extremely convincing. I think that's what Ms Roy is talking about.

However, the jury is out, basically, in Europe and in North America with regard to how we best deal with children. I think the underlying comment by Ms Roy is that junior kindergarten is not synonymous with child care. I agree with her and I think the programs, depending on the school boards and depending on the country, are very different. I think what is best for children is extremely important and I think that in many communities families have chosen to send their children, because it's right for them, to junior kindergarten programs. I think that's great.

I think it's also interesting that since the beginning of time in Ontario, kindergarten has not been compulsory. But because of pressure and because we've learned that young people do excel and that in later years they stay in school longer because of their early childhood experiences, it's interesting to note that this bill does make kindergarten mandatory for the first time. It hasn't been mandatory in the past. Parents have been allowed to keep their children home. There's been no way, according to the law, that you could legislate that four- and five-year-olds go to school. This bill is very different. It hasn't been mandatory to send your child to kindergarten.

Mr Martin: It still isn't.

The Vice-Chair: Mr Martin would like to clarify that. That's a good point.

Mr Martin: I think it's really important to point out

that parents do not have to send the kids to either kindergarten or junior kindergarten.

Mrs Cunningham: What are we looking at here, section 12? No, section 14.

The Vice-Chair: Yes.

Mrs Cunningham: I take the comment back. School boards have to provide the programs now. Therefore, there is a change, though, is there not? School boards didn't have to provide the program before.

Mr Martin: That's right.

Mrs Cunningham: So there is a change.

Mr Martin: Yes.

Mrs Cunningham: I stand corrected. My intent was that it's compulsory now that school boards provide the programs, but it wasn't compulsory that they did before. I think until about 15 years ago, 99% of the boards did anyway.

But I think I'm going to go back to what my colleague Mr Beer has stated. Our main objection is that at this point in time, since local boards may in fact choose to provide junior kindergarten programs for their young people—because perhaps in that very community they may have an extensive child care program that's working and that may be what their choice would be.

I think I'm going to underline one of the big concerns of the boards themselves. They were opposing the mandatory requirement—I'm trying to find the one that was put forward by the school boards. I can't see it on this workup on the research, but I know that in fact the Ontario Public School Boards' Association comment is extremely important:

"School boards that do not provide junior kindergarten programs have stressed the need for flexibility in implementation strategies, particularly with regard to the utilization of early childhood education staff and other measures to reduce costs in this difficult financial environment. It's important to reaffirm OPSBA's position that junior kindergarten programs not be mandatory but be at the discretion of the local board. The public school boards concerned are also anxious to review the conditions in the regulations which would allow them the phase-in flexibility prior to the passage of this bill."

Later on, we'll be talking about child care programs or the junior kindergarten programs. I don't think we've worked out in Ontario what the staffing ought to be like, and I think boards are asking for the flexibility and we should give it to them. That's all we're trying to do here. I'm not trying to say that an early childhood education program in any form isn't valuable and useful. That's research that was well documented after the First World War.

Mr Hope: I couldn't help it. I was going to try and stay away from it, but I've been intimidated to partici-

pate. I always find it very interesting that we're talking about financial situations and how the reductions of the province are there. I was relieved to see that the Chatham Daily News, one of the fine papers that is in my community, one of the dailies, had indicated about the transfers from the federal government and the reduction aspect that Ontario had faced from the transfers from the federal government.

While we're all trying to face this financial crunch that's on us, I think we have to do a lot of weighting of values behind programs. We focus the finger at the provincial government, and I thought it was important that I reiterate that a CP wire that was brought through and was printed in the Chatham Daily News about the transfers from the federal government to this province was inaccurate and was not comfortable to the needs that it should have been at.

Mrs Cunningham: The Chatham Daily News also has many editorials with regard to no new taxes, and if in fact we're going to impose new programs on school boards without the money, without the dollars that go with them, I think this motion should be supported by the member from Chatham, because that in fact supports the intent of the legislation, and that is that we not tell school boards that they have to provide programs where the money isn't supporting the implementation of those programs. That is the intent at this time, first of all, that boards have flexibilities around program and, secondly, that they not be asked to institute new programs where they don't have the money. Both of those positions have been supported by the Chatham Daily News.

Mr Hope: I think it's also important to indicate that we have junior kindergarten in Kent county.

The Vice-Chair: Thank you, Mr Hope. We'll stop the circle now. The amendment is before you—

Mr Beer: Recorded vote, please, Mr Chairman.

The Vice-Chair: —on subsections 14(2) and (3). Recorded vote on the amendment by Ms Cunningham. All those in favour, first?

Ayes

Beer, Cunningham, O'Neill (Ottawa-Rideau).

The Vice-Chair: Opposed?

Nays

Carter, Hope, Malkowski, Martin, O'Connor, Rizzo.

The Vice-Chair: Motion defeated. Mr Beer, the next amendment to subsection 14(2)?

Mr Beer: Yes. Given that the Liberal amendment is identical to the Conservative amendment and we have already had the vote, I'm not sure whether we should just say "same vote" or just withdraw it.

Mr Hope: Same vote.

Mr Beer: Same vote.

The Vice-Chair: Agreed, same vote?

Mrs Cunningham: Why don't we read it into the record, though?

The Vice-Chair: Same vote on amendment.

Shall section 14 carry? Vote?

Mrs Cunningham: No, I'm against it. Are you going to call the vote, for or against?

The Vice-Chair: Yes. Section 14, in favour? Opposed? Motion carried.

Shall section 15—oh, sorry, there is an amendment.

Mr Beer: We have an amendment, and I believe the Conservatives do as well. They're both similar, but I wonder if I could ask a question. Well, I'll move the amendment and then perhaps I could ask a question.

I move that section 15 of the bill be struck out.

I understand, Mr Chair, that there have been discussions since we last met with respect to this section, and if those discussions are as they have been described to me—I have had an opportunity to talk to some of the participants. It would appear that some substantial movement has been made in trying to deal with this issue. I think we are all after trying to find solutions and are not just putting forward amendments for the sake of amendments, and before we discuss our particular amendment and, frankly, as to whether we want to put it or not, we might ask the parliamentary assistant if he could comment on the discussions that have taken place and what, as I understand it, the minister is prepared to do. I think with some discussion of that it may resolve the issue that is in our amendment.

Mr Hope: On a point of order, Mr Chair: Which amendment are we dealing with?

Mr Beer: I just moved our motion, which is, as I say, the same as the Conservative motion.

Mr Hope: Yes. I have to then pose the question, is that motion in order?

The Vice-Chair: No, it's not in order.

Mr Hope: Okay.

1630

Mrs Cunningham: Mr Chairman, in spite of its not being in order, I think Mr Beer has just moved his motion. You can rule it out of order, and I'm certainly going to move mine, but I think what we're trying to do here is get to the guts of the whole issue. We're all ready to move, but it's inherent upon us to at least move our motion.

Mr Hope: But there's an alternative that we can open in the proper dialogue and discussion, because these are technically out of order.

Mrs Cunningham: I don't intend to speak to my motion. That should have been handed out at the beginning and then perhaps we wouldn't even have to put it. Mr Beer has put the motion. Ours is exactly the same and I want to be on the record as putting it on the record.

The Vice-Chair: So it can be ruled on.

Mrs Cunningham: Instead of babbling about it, maybe we can find out what's happened.

The Vice-Chair: Is the committee agreed to have Mr Martin respond? He was asked a question. Should he respond to the question?

Mrs Cunningham: Or table a new motion so we can see what we're doing.

The Vice-Chair: Mr Martin, would you like to respond first?

Mr Martin: We're not tabling a new motion. But as Mr Beer has said, this issue has been under some high degree of discussion, actually, ever since it was introduced and people began to come forward. It was recognized by the government side and the ministry as an issue that needed further review. It needed us to come forward with something that would allay some of the fears of the folks who came forward with some very sincere and genuine concerns around this piece of the act.

It's proposed that the provisions of the Education Act dealing with hard-to-serve pupils be repealed. These pupils will be governed by the same provisions that apply to other exceptional pupils.

Some submissions to the standing committee have expressed concerns about a small number of pupils with severe learning disabilities in combination with behavioural and attentional disorders falling through the cracks when the hard-to-serve provisions of the Education Act are repealed. To ensure that these pupils have a safety net available to them, the ministry proposes the following.

First, the ministry will staff for an increase of approximately 20 pupils to be admitted to the residential demonstration schools. These places will be phased in on an as-needed basis, over a period of at least one year.

Second, the ministry will develop a regulation to establish the Provincial Committee on Learning Disabilities (Anglophone and Francophone). This committee currently determines admissions to demonstration schools. Establishing the committee by means of a regulation will permit the ministry to also set out its powers and procedures. The Provincial Committee on Learning Disabilities will have the authority (1) to evaluate the needs of the pupil; and (2) to determine that the school board shall provide an appropriate placement for the pupil, directly or through a purchase of services from another school board; or (3) to admit the pupil to a demonstration school; or (4) to facilitate the placement of a pupil whose primary need is for care or treatment in a government-approved section 27 facility.

Third, additional funding will be provided to some school boards to enable a number of pupils who are

eligible to attend a demonstration school to receive additional supports in local settings where the committee decides.

Revised procedural guidelines will be issued to school boards to use when referring pupils to the Provincial Committee on Learning Disabilities.

That's what we're proposing.

The Vice-Chair: Mr Malkowski has a question.

Mr Malkowski: Just a technical question to clarify something you said: The specific group of children who are learning-disabled plus attention deficit disorder, is that group also guaranteed the appropriate services? Was that in there, Mr Martin?

Mr Martin: That was the intent of the change here, to put something in place that would speak to that group who at the moment don't seem to be able to have their needs met, actually have their needs met within the public education system of Ontario.

Mrs O'Neill: I guess my question is similar to Mr Malkowski's. First of all, is it possible to get what Mr Martin read in writing? It's new, it's difficult and it's detailed. Can we have it in writing?

Mr Martin: Sure.

Mrs O'Neill: Okay, let's have it in writing then.

The Vice-Chair: That could be circulated then.

Mrs O'Neill: While that's happening, may I ask—I'm not sure I've caught the correct thrust, because as I said, I've just heard it. Certainly I preface this by saying I have been one of the strongest supporters of the Learning Disabilities Association of Ontario my entire career. But it seems here that this association is being given a profile. I wonder—and I'd like to have this from the Education officials—whether every single hard-to-serve pupil, as designated, would have fallen into the category of learning disabled. Would the 12 or 6—we haven't totally agreed on that number—all have fallen under the learning-disabled designation and therefore not go into a crack? If that's not the case, we've got more difficulties for maybe two or three very severely handicapped pupils in this province.

The Vice-Chair: Mr Martin, whom do you wish to respond?

Mr Martin: Peter?

Mr Ferren: In response to this question, I believe the pupils we're talking about are those with severe learning disabilities in combination with attentional or behavioural disorders. Of the pupils who have been provided with funding to date, all except two fall into that category. Two of those pupils required care and treatment over an extended period of time out of country. Those students whose primary need would be care and treatment would be covered by another section of this bill.

Mrs O'Neill: If I may just ask, how does what we

have just read affect the bill? Is it going to change the bill? How is the guarantee that you've just read going to be added—as a memorandum or as part of the compendium? How are we going to know that what you've just said is really part of this bill?

Mr Martin: It's not going to be part of the bill. The part of the bill that we brought in to repeal the hard-to-serve section will continue. But it's on the record as what we propose to do. We've had some lengthy discussions with people out there, particularly the learning disabilities association. Ms Nichols, sees this as something that gives her some comfort and some assurance that because of this some improvement will actually happen to the system for the people she speaks on behalf of and is so concerned about. I guess that's all I can say on that.

Mr Beer: I have a couple of questions, but first of all, I think that those who were involved in the discussion have provided some greater guarantees in that one understands this process that we get into in committees where we're trying to seek changes. I think with what you have outlined, and in my own discussion with Ms Nichols and with minister's staff, we would accept the word of the minister. As I understand it, he would be prepared to say that in third reading of the bill. It's clear, and obviously we'll be able to see if in fact the government is going to do what it says.

I think what's important here is that our concern all along with this section repealing the hard-to-serve was, in a sense, the whole context within which we were dealing with special education. Originally it was in another bill. We were looking at the possibility perhaps of a broader special education act, so that there was a context. The concern here was that if you simply took that away, what were the guarantees that would be in place? I think, from the witnesses whom we had and others who wrote to the committee, those were the concerns. I think the government has put forward a number of specifics here which speak to that concern, and that is a step forward.

1640

There are a couple of things that I would just like to make sure are on the record. Firstly, with respect to—and this is in Bill 4 itself—clause 15(2)(b), which stated, "Ontario is not liable to pay the cost of a placement..." and there was the date of June 2, 1992, I know in questions in the House the minister said that no one would be pursued for back payments. But I would just like to be clear in terms of that specific clause 15(2)(b), firstly, that the government will not be asking people to pay money back and, secondly, that the process that you envisage would be able to assist anyone who has come forward since June 2, 1992, and who is judged or determined by a school board to be hard-to-serve, that they will be dealt with under this process.

There are a number of questions. I don't expect they

can all be answered today, but I would like to just place them on the record, so that perhaps they can be taken into account in terms of the minister's statement at the time of third reading. I think you have responded to some of them, but as we've sort of received this in a public sense today, I would like to just pose these questions. I'll be as brief as possible.

Firstly, what will the expanded role or mandate of the Provincial Committee on Learning Disabilities be? I think, as we hear the discussion, that committee will have, in effect, an expanded role. I think that could be very positive, but we'd like to be clear on its expanded role and mandate.

What role will parents have in this new expanded process? When will these changes take place? According to our understanding, the Provincial Committee on Learning Disabilities will determine eligibility criteria. How will they do this and how long will it take for the criteria to be approved? What will happen until the new criteria are approved?

What additional funding resources will be provided to school boards in order that they are able to purchase the appropriate services for a child? Will the full cost be recognized? What will happen if a board does not have the financial resources to provide the necessary support? How will this be impacted by the social contract reductions expected in school funding?

How will it be determined that a child is in the most appropriate placement? Who will make this decision? How will these changes impact on the existing IPRC process? What will happen when parents do not agree with the decision? Will there be an appeal process established? I believe that there will be, but I put the question. What strategies will be used to monitor a student's placement in a demonstration school? How will these new measures be phased in?

Finally, the proposal states that students will be "placed in appropriate local programs with supports." Can a definition of "local program" be put forward? If a student is best served in a local private school, will this be considered a local program? We heard of one case in which the appropriate placement was a program administered by a school board in a child's home. Will this still be an option in some cases, and who will pay the costs?

As I say, those are questions which I place on the record. I don't expect necessarily that they can all be answered, but I would again just say that in our discussions with those who are involved in the meetings the government had this seemed to be a positive move forward.

We will be looking to the minister's statement at third reading, but if this all comes forward as is set out, as I said before, I think that is very positive and will be of great assistance to those people who are going to

need these services.

Mr Martin: Just to comment or to answer some of your questions, and then perhaps turn it over to Mr Ferren to maybe deal with more technical details that you've raised, you certainly have raised all those questions that we were raising and asking and trying to come to some resolution around and on, because we took this challenge very seriously.

In terms of the funding, to put it on the record, funding will continue for the 1993-94 school year. The ministry will not be going out to parents to ask for any refund of money, so people can be comfortable around that.

The ministry will work with parents and boards to ensure that students who have applied for demonstration school placements for next year or who have been seeking a hard-to-serve designation receive appropriate placements.

The ministry will ensure that regional offices work closely with boards to ensure that students receive appropriate placements and that boards work with parents in accordance with the IPRC process as set out in legislation and regulation.

We've listened to the presentations and have heard that parents have not always felt—and this is talking to the broader context—as informed as they should have been. Therefore, we have also made a commitment to the special education advisory committee to produce a new prototype parent guide which boards will then be asked to flesh out for their boards and make available to their parents so that there's adequate information out there. Sometimes the criticism that I've gotten, particularly through this process, has been that the parents didn't know what the process was or what was available. This parent guide will refer to provincial and demonstration school programs and the relevant procedures to follow to get there.

There's one other piece here. We also will ask the special education advisory council to review the IPRC process and make recommendations which will ensure that boards are implementing the existing law and providing appropriate programs, because as I read some of the materials that I did, and I guess I refer particularly to the Justice for Children group, their concern wasn't so much, it seemed, the hard-to-serve provision, although they saw that as certainly an important piece given everything else doesn't fall into place, but with the IPRC process and its inability to deal sometimes with some of the really difficult children. So we're making a commitment as well to look at the IPRC process through the special education advisory committee to make sure that it does in fact do what it was set up to do in the first place.

Mr Ferren: I don't believe that I'm able to answer all of the questions that are here, but I can some of

them, and the very first one: What will the expanded role or mandate of the provincial committee on learning disabilities be?

As was indicated by Mr Martin, the regulation that will be developed will include the duties and powers of that committee, but what we have discussed with the associations to date are some specific duties that would be required in order to place the pupils in a demonstration school and also to require a school board to provide an appropriate program or to purchase it from another, and among the duties would be these:

When the child is referred to the committee, the committee would evaluate the needs of the pupil. The committee would determine what type of appropriate placement is needed in a school program, and if that is the appropriate placement, then they would require the school board to provide that. Secondly, in combination with that, if the school board in question is unable to provide that program, but could through a purchase of service, then they would be required to do it. Thirdly, the committee would determine whether the pupil should be admitted to a demonstration school, and of course that would be with parental consent. Finally, the committee would facilitate the placement of that pupil in a section 27 program if that were necessary, understanding that they could only facilitate it; do the best they can to ensure that at least those with the severest need are being placed in those programs.

The question also comes up of the demission from the demonstration school and the role of the provincial committee on learning disabilities. That committee would be monitoring the pupil's progress while in the program and would be involved in the orientation of the pupil back to the regular school program so that the needs would be reviewed and the school board would be advised of what the needs are at this particular time and what they would be required to provide for the pupil upon demission and return to the school.

Those are some of the duties of the committee that we discussed. They're not exhaustive. One of the questions that was raised by Mr Beer is the role of the parent and what is proposed—I think Mr Martin referred to that—that during the development of the regulation there would be consultation with the various stakeholder groups to determine what appropriate role parents should play on that particular committee.

1650

At the present time, the composition of that committee, of course, is not by regulation, but it consists of a representative of the special education and provincial schools branch, who chairs the committee; the program directors of the provincial schools, one from each of the schools; a registered psychologist; a representative from the children's services division of the Ministry of Community and Social Services; and one or more additional representatives as may be required.

A couple of other questions that were asked: When will these changes take place? I can't be specific about that, but I would assume as soon as possible. But a question that accompanies that is, what will happen until the new criteria are approved? It is my understanding that immediately, or as soon as possible, there will be a reconvening of the provincial committee on learning disabilities to review the pupils who are not to be admitted for this September and that there would be a review of those pupils to determine the number who could in effect be admitted this September; in other words, an additional number of pupils.

I can't answer the questions about the social contract at this point in time, and there are many other questions that Mr Beer has raised.

The Vice-Chair: Are you finished? Mr Martin?

Mr Martin: Maybe just briefly, the question around the social contract: The social contract is an attempt by this government to, in these very difficult financial straits that we find ourselves in, continue offering programs and services and to do that without any more money, because we don't have it. It seems to me that if we were to just sit back and allow the system to evolve as it has been for the last few years, these are the kinds of programs that tend to be falling off the cart. The social program, in my mind, and hopefully if everybody participates in the way that we expect them to or encourage them to, will in fact give us the room to do the kinds of things that we feel are really important for those who are most vulnerable and usually most marginalized in our community. So I would certainly see that actually being more helpful than unhelpful in this instance, in my mind.

Mr Malkowski: I just would like to make a comment, and I guess perhaps even a technical question. Constituents have been to see me, some last week, people who were parents and their children were learning-disabled; other parents who came in to meet me, they had attention deficit disorder. There was a representative from the learning-disabled organization, and they were commenting about their concerns about the repeal of the hard-to-serve section, because they were looking for guarantees of that safety net for their children. I'm very pleased that in this proposal the government has been able to guarantee a provision of service for the learning-disabled children as well as with attention-deficit-disorder children.

But I guess I just have a question; really, a clarification. Will there be any regulation that would permit parents with learning-disabled children or attention-deficit-disabled children to bring experts or to bring advocates to the IPRC process?

Mr Martin: I think as we review the IPRC process, those are the kinds of things that could be, in my mind, entertained and perhaps dealt with at that time, because that's an issue that certainly has been brought up on

numerous occasions in my experience and is one of real concern.

Mrs O'Neill: I found some of the remarks Mr Martin has made are very confusing, and I'm not sure Mr Rae could agree with them. "The social contract will give us room to do these things." My goodness, the social contract has already been taken out of this budget, so I presume there's room for this in the budget, as well as the savings of the social contract, because we're not going to see the money floating around that's going to be saved, if any—and I have my doubts—from the social contract negotiations. So I'd hate to base this kind of what I consider may be a good initiative on savings from the social contract. Please let's not confuse that.

The Vice-Chair: Mrs Cunningham.

Mrs O'Neill: I'm not finished, please.

The Vice-Chair: Sorry.

Mrs O'Neill: I'm very confused by this because this is a very big, new initiative. It's certainly a very strange and different role for a committee, and I have no doubts about this committee professionally. I'd like to know, however, how that committee is going to fit into section 37 of the act, which is the tribunal and goes to the regional and special education tribunal. I don't see any mention of that here.

We're into very heavy legal proceedings when we're talking about hard-to-serve pupils, and however well-meaning this is, if we're going to disrupt other parts of the act, then I think we have to be up front about that. I'd like to know, and I really think I need it in writing, how this is going to be complementary to the existing appeal process and to the IPRC process that is in existence now.

I'm also somewhat confused by Mr Martin's remarks about the guidelines that I think he said the SEAC committee, the special education advisory committee, is going to now put out to boards. Since Bill 82, which is long time past, but we still call it Bill 82, boards have been working and struggling, and I've been part of some of that, to get the best possible guidelines for parents, particularly special education parents, and I know there are some excellent, excellent productions in this province.

So what are we talking about here? About a new guideline that will talk about this process? Are we talking about something broader? We just can't be airy-fairy and cloudlike about something as fundamental as this.

The Vice-Chair: Mr Martin, did you wish to respond?

Mr Martin: Perhaps to resolve some of the confusion, Mr Ferren might take a crack at it.

Mr Ferren: Thank you, Mr Martin. I'll try. What the ministry is proposing is to use existing structures as

much as possible, and I think that can be done. The provincial committee on learning disabilities is a current committee that's been in operation for several years. It is not established by regulation, and the intent is to establish it by regulation and thereby be able to spell out the duties and responsibilities it presently has, plus add the responsibilities for these additional pupils.

In reference to the appeal process, what is proposed—the child is referred to an IPRC, the identification and placement review committee, and if at that stage the IPRC and the parent agree with the placement or with the recommendation for referral to a demonstration school, then the pupil would be referred to the provincial committee on learning disabilities.

If there is disagreement at that particular stage, then the parent would have the right to proceed towards an appeal. If the parent disagrees with the decision of the appeal, then the parent could proceed directly to the provincial committee on learning disabilities. But these would have to be spelled out in the regulations. In no way would it affect the parent's right to a tribunal.

Mrs O'Neill: Sorry. Could you just repeat that last little bit? The parent would be able to go to an appeal.

Mr Ferren: Right.

Mrs O'Neill: To the provincial committee.

Mr Ferren: Let us go back to the IPRC process.

Mrs O'Neill: Yes, okay.

Mr Ferren: The child and the pupil we're talking about is a pupil with severe learning disabilities in combination with a behavioural or attentional disorder. That pupil is referred to the identification and placement review committee. If at that stage the IPRC and the parent agree with the recommendations to refer the child to the provincial committee on learning disabilities, that referral will take place. If the parent disagrees at that stage or if there is disagreement on the decision of the IPRC at that stage, the parent could go the appeal route as set out right now in Bill 82.

1700

Mrs O'Neill: In section 37 of the present Education Act?

Mr Ferren: Right, or is that the tribunal? But anyway—

Mrs O'Neill: Yeah, well, it talks about exhausting—

Mr Ferren: The appeal too?

Mrs O'Neill: Yes.

Mr Ferren: Okay. Now, when the appeal hearing is held, if the parent is dissatisfied with the decision of the appeal board, then the parent would have the right to refer the pupil directly to the provincial committee on learning disabilities.

Mrs O'Neill: I guess that's what's confusing me. They could come back a second time. They are being placed in another position. The provincial committee on

learning disabilities comes in not only in determining whether this is a good place, the provincial school, because I figure they have a role in eligibility criteria, but they also come in somehow at the appeal stage. That's what's confusing me.

Mr Ferren: They really only come in at one stage. They come in following the IPRC process. Either the child is referred from the IPRC to the provincial committee on learning disabilities by agreement of the committee—

Mrs O'Neill: Right.

Mr Ferren: —and the parent or, if there's disagreement, the parent has the right of appeal at that stage to the appeal hearing.

Mrs O'Neill: So there are two roles, though, for this provincial committee now. You're not stating it clearly. I'm sorry.

Mr Ferren: Okay, and I may not be.

Mrs O'Neill: You are not, because you're stating that they will have a role in determining whether it goes to provincial school, and you're also talking about a role as an appeal body. That is what's confusing me.

Mr Ferren: Okay, let me try once more. The pupil is in the school setting, has probably been identified as exceptional already and is in some sort of placement in a school program. Then the child is subsequently reviewed, or it may be the initial referral to the IPRC. By that stage, we're talking about this particular type of pupil, and that's the pupil with severe learning disabilities in combination with other disorders. At that stage, the review takes place, the IPRC has an assessment of the child and all of the discussions take place, the review of the educational assessment and psychological and health assessment, whatever may be required. Then the determination is made by the IPRC that the child should be referred to a provincial committee on learning disabilities for consideration for a demonstration school placement. If the parent agrees, the referral goes forward.

If—we're back now—the IPRC recommends that the child not be referred to the provincial committee on learning disabilities, and the parent disagrees, the parent then would have the right to appeal that decision, as he has now under Bill 82. So the local appeal board would be convened, the case would be reviewed, the decision would be made by the appeal board, for example, to refer the child to the provincial committee on learning disabilities or no, the child should not be referred to the provincial committee on learning disabilities. At that point, we envisage the parent having the right to refer the pupil directly to the provincial committee on learning disabilities.

Mrs O'Neill: I've got it. Thanks.

The Vice-Chair: That completes your response, Mr Martin.

Mrs Cunningham: I applaud the efforts here to meet a compromise with what I think is probably technically a difficult situation for the government. I'm going to take, I think as all of us will, on good faith what's being attempted here. I think for many of the committee members, and perhaps the government representatives themselves, the evidence that came before this committee clearly told us that the system is working where persons want to really work hard to make it work. As a matter of fact, if everybody felt that way, I don't think we would be here talking about this today. But every once in a while we have some exceptions.

I think we have exceptions with school boards that feel it's their responsibility to do all the work without including parents and the parent representatives on their special education advisory committees. I would underline that as being a very real concern.

I would also say that the leadership within school boards, as it changes, is partially responsible for that. It's a people problem rather than a legislation problem. Where school boards are filling out annual reports on how their process is working without the input from parents and then providing it to them for a rubber stamp would be the greatest criticism that I get in my office: "We weren't involved, and then we were made to look like a bunch of goofs when in fact we even had the audacity to ask questions."

What I'm stating is very real. I'm sure all of us have received it from time to time. Interestingly enough, I underline "from time to time," because within that same school board, with a change of leadership from time to time, in good faith, these special education advisory committees work.

I notice the parliamentary assistant said that with regard to bringing advocates to meetings for the IPRC committees along with parents and students—I would suggest that in most school boards parents and students can bring anybody they want. We shouldn't even be questioning who parents bring for support, because some parents can't speak on behalf of their own children. It's just too emotional for them, especially the first time they've ever found out or when they themselves know that within that board they're trying their best and still not meeting the needs. I would suggest to Mr Martin that he maybe take a look at that. I think right now you can bring anybody in.

I would also suggest, because you have a position where you can change it, if there are some school boards that don't allow that, I don't think we need regulations. That's just caring and common sense. In the best of systems we don't wait till the spring of the school year. Parents meet with their teachers and their advocates on an ongoing basis. If it's not happening, that's why the process isn't working. I don't think it's because of the law.

With regard to the hard-to-serve, the committee exists now, does it not? Could I ask questions of the Education staff, Mr Chairman? The hard-to-serve committee exists now.

Mr Ferren: Yes.

Mrs Cunningham: Who's the chair of that committee at this point in time?

Mr Ferren: The chair of that committee at this point in time is a member of the special education branch, Don Werner, in the special education and provincial schools branch.

Mrs Cunningham: Okay. I'm just asking because we in London did have access, through Dr Madeline Hardy, to some of the work of the committee over a period of time and we were made very much aware of the challenges before that committee and the frustration on behalf of parents. I suppose that's why our amendment is here, both the Liberals' and the Conservatives'. Actually, we're putting this amendment forward on behalf of the former NDP in opposition, because it was Richard Allen who spoke very strongly for this particular piece of legislation at that time. He was absolutely shocked at the Conservative government of the day for not being more flexible and more, what should I say, open with regard to that amendment, more exclusive as opposed to inclusive.

All I can say is, in response Dr Bette Stephenson did reply as to her definition of a hard-to-serve student. I think the definition has probably been read into the record, but it still stands.

I'm not sure whether we should be willing to leave this meaning—I still feel very strongly that this is worthy of legislation, but I don't think the committee has been advised as to really why the government wants to make these changes. I understand it probably has something to do with the expense and probably to do with some court cases, and I'm going to take them in good faith and support the intent of what the government wants to do at this point in time.

1710

I really say this in good faith because I think all of us are going to get students, if we haven't already—I certainly have a blind student right now who's been deprived of her technical equipment because the parents and the school board couldn't come to an agreement with regard to where she ought to be at school. I think it has more to do with where she goes to school, I suppose. It's just one of those difficult situations for the school board. It meets with the intent of the government on page 3 of your notes, Mr Martin, where it says, "Third, additional funding will be provided to some school boards to enable a number of pupils, who are eligible to attend a demonstration school, to receive additional supports in local settings, where the committee decides."

This is a case of a blind child who does want to go to school in her neighbourhood, who can find another education institution, where the parents have decided to pay themselves, because the school, this private school, has offered to raise money for the child. I know you will agree with me and everybody else around this table. Because of that the equipment that is with her now is being withdrawn, because somebody's using some technicality that doesn't exist.

I'm sure the thing will work out, but can you imagine parents having to go through this, having to make this huge decision for their child, make the huge financial commitment, having to put themselves at the mercy of either another school or a local community group, having to go public, and any non-profit institution or public institution saying, "We'll take your equipment away from you"? It is gone. It has been given to another child.

Now we're all looking in amazement, but these are the kinds of things that happen when people don't work in good faith. I don't think any regulations will change it. I'm sure that when it's brought to the attention of the government it will change it in some way, because that's the intent on page 3. That's my understanding, that these kinds of situations can be worked out, especially where parents are prepared to pay. If they can't work it out themselves, I'll certainly bring it to the attention, perhaps, of yourself, Mr Martin.

Mr Martin: Hopefully I'll be around long enough to—

Mrs Cunningham: Oh, it's going to happen in the next two or three weeks. I think you can assure yourself. That's not 1997.

Mr Beer: I have just one question that I think it's important to be clear with, because, as Ms O'Neill said, we are dealing with legislation. Again, as everyone has said, I think there's been considerable movement here. I want to be clear on one thing, though. In Bill 4, section 15 as it is now worded still deals with June 2, 1992. I just want to be clear on the meaning of that. I guess my druthers quite frankly would be, given the nature of the discussion that the ministry has had with the various groups involved, that it would be simpler to have section 15 read "Section 35 of the act is repealed," period, and that 2(a) and (b) wouldn't be there.

I accept that clearly the government has said, "Look, we don't want anybody to be worried. We're not going after funds that have already been paid out to families," but I want to be clear. I think we've had witnesses testify to perhaps two people who, post-June 2, 1992, either have been deemed hard to serve or are in the process. That date, I believe, was here simply because the old Bill 37 had that date. Is there not some way either we could make that 1993, as opposed to 1992, which at least is when the bill came forward, so that—I guess it's the retroactivity of any piece of legislation

which I always felt is difficult as a principle.

But could I ask the parliamentary assistant, and perhaps staff, given what has been set out, why do you need 2(a) and (b)? If we need it, could it not be 1993 or, let's say at least, the moment this bill was put forward. I may be wrong, but I don't think it's a question that we've got more than a couple of pupils who either have been or may have been designated hard to serve. I just would like a little more guidance. If this were to stay in, how would those people who have come into the process—and I guess I'm thinking of the witness who came from the Sault, her son, and I can't remember but I think there was another one.

It's really just, why that date? Why does that date still have to be in the act? Could that not read 1993? Why, as my colleague from London North has said, accepting the word of the government in terms of what it's going to put into place, do we need that 2(a) and (b)? What does that do and how do we protect anybody who's been brought into the system between June 2 of last year and whatever the day was we started our deliberations on this bill?

Mr Martin: I think Mr Beer certainly makes a valid and good point. I would ask for some counsel from Ms Goldberg on that.

Mr Beer: I appreciate if there's a need for just some consultation, that perhaps we could allow some time for that. Mr Chair, if there is a need for some discussion, I think we'd be quite—

Interjection.

Mr Beer: Oh, sorry.

Mr Hope: Could I just ask, then, for a five-minute recess?

The Vice-Chair: Mr Hope proposes a five-minute recess. Any opposition? Recess, five minutes.

The committee recessed from 1716 to 1728.

The Vice-Chair: I call the meeting back to order. Mr Martin, would you proceed?

Mr Martin: Yes. We've agreed to an amendment to that, to respond to Mr Beer's concern. I was going to ask legislative counsel to read it into the record, but he's not here.

The Vice-Chair: It's being photocopied, so it'll be back in a moment.

Mr Beer: If we have a moment till it's back, would it be appropriate to raise the other question that we were discussing?

The Vice-Chair: Yes. We're waiting for legal counsel to duplicate it.

Mr Beer: In the immortal phrases of all Speakers, looking at the o'clock, we were concerned. We had said it was our intent to finish today. This has been, I think, a very constructive and positive day. Frankly, all of us have put a lot of information on the record and the

discussion has been to the point. We are going to hopefully complete the issue around the hard-to-serve in section 15 when the amendment comes back.

During the break, the member for London North, the member for Chatham-Kent, the parliamentary assistant and myself were discussing the possibility—there are still a couple of parts of this bill that we think we can complete but that we would like to be able to deal with in a thoughtful way. In the normal course of events, the standing committee on social development would sit tomorrow, and we would suggest that we do that.

It is certainly agreed, and I can speak for my caucus, that we would complete the committee hearings tomorrow, Tuesday. I think we agreed last week that the intent would be to finish today. I think we all agreed that was our intent. I think we've come very close, but there are just a couple of other things which we would like to discuss, so we're putting forward that we meet tomorrow. Again, I'm just saying it is not my intent to finish tomorrow, but speaking for the Liberal caucus, we would finish tomorrow. We believe that we would have sufficient time to do that. So I put that out as a proposal.

The Vice-Chair: Discussion on Mr Beer's proposal that the committee meet tomorrow afternoon to complete clause-by-clause.

Mrs Cunningham: Only to say that I do concur. We've put a lot of work into the amendments and we're getting some good information from the representatives of the government. So it's been a very useful process. I think some of the things that we're saying will help us down the road with regard to, at least in this instance, some of the hard-to-serve students and also give the government some direction with regard to the concerns as we hear them in our communities.

Another day of that kind of thoughtful input on behalf of the public who came before the committee and others who have been in touch with us I think is positive. I would certainly hope, as Mr Beer has stated, that we could finish tomorrow afternoon. That's definitely our intent and that would be our goal.

Mr Hope: Therefore, I move that the Chair advise the House leaders of the possibility of sitting tomorrow, because we do not have that power of authority to conduct that process. So I would ask the Chair to direct a letter to the House leaders' office requesting an additional day to be completed tomorrow.

The Vice-Chair: It's my understanding the committee does have the authority to meet tomorrow if the House is sitting.

Mr Hope: Then you still need a motion of this committee to do so.

The Vice-Chair: Yes.

Mr Hope: Under the current motion that was approved, we've only had approval for the last two

days. We had to seek approval for today and we have not sought approval for tomorrow.

The Vice-Chair: Motion by Mr Hope that the committee in fact meet tomorrow afternoon.

Mr Beer: I'll just second.

The Vice-Chair: All in favour? Thank you.

Mr Hope: All opposed?

The Vice-Chair: Actually, the city of London's system is to ask for all opposed, and if there's a majority voting, it's automatically carried.

Mrs Cunningham: I don't know anything about that.

The Vice-Chair: You don't use it in public.

Mrs O'Neill: I did certainly develop a much more complete understanding as we've proceeded three or four times through what's going to happen as a result of this intervention of the ministry. May I ask if, at the end of the appeal to the provincial committee on learning disabilities, the parent who I understand has been able to determine to go that route, even without the agreement of the board, could then hook into section 37—would that be the next section?—which states, "Where a parent or guardian of a pupil has exhausted all rights of appeal"? In other words, the appeal to the provincial committee is one more area of appeal that wasn't there before today. When that's exhausted, section 37 would still hook in.

The Vice-Chair: Does the ministry wish to respond to this suggestion by Ms O'Neill?

Ms Deborah Goldberg: The right of a parent to appeal to the special ed tribunal from a decision of the appeal board remains unchanged. If parents are going through the regular process, they've gone to an IPRC, they've appealed to an appeal board and, say, they have not gone to the provincial committee on learning disabilities, but they've chosen to accept a board placement—perhaps they're not satisfied with the exact placement—they still have the right to go to a special ed tribunal.

When we were discussing this, we did not at the time envision a further appeal to the special ed tribunal from a decision of a provincial committee on learning disabilities. Because of the nature of the powers of that committee, at the time that we were reviewing it, it didn't appear that it would be necessary. Certainly, we can look at it and see where it is important.

Mrs O'Neill: I really wish you would because we were told at the beginning of this discussion that you were going to use all of the existing structures. I would find this a step backwards if a further appeal, which every one else in the province has and it states in this legislation—I mean, we'd have to change section 37, I think, because it says, "where a parent," and it doesn't say what kind of appeal, "has exhausted all rights of

appeal." You've put in an extra step now.

I would not be able to support this at all if section 37 is not going to be effective for a certain group of people who may need it more than anyone else.

Ms Goldberg: The parents won't be shut out from the process. The question we would have to determine is exactly what it is that they would be appealing to the special ed tribunal.

Mrs O'Neill: Any decision of this next body. It really is only a body, the provincial committee on learning disabilities.

Mr Beer: Just on that, it seems to me that section 37 is still in the act. It is not being repealed. Presumably if, as you work through the process, there's the intention to make further changes, then those would obviously have to be brought forward in legislative form so that our understanding, to those who are watching or reading these proceedings, is that this option is still there until it is changed through legislative change.

Ms Goldberg: The intent was not to reduce any of the available appeal mechanisms for parents.

Mrs O'Neill: That's what I needed to hear.

The Vice-Chair: Were you finished, Ms O'Neill?

Mrs O'Neill: Yes. Thank you.

Mrs Cunningham: I think I know which one, if I could just ask questions about Mr Beer's questions, and then you can maybe move the motion and I can give my intent. Is it section 35?

Mr Hope: Yes, it might clear it up, though.

Mrs Cunningham: No, I'm going to move backwards just a titch here and get a couple of questions clarified, and then if you want to, it will be the next step.

I'm sorry that I had to leave the room for a moment when my staff person called me out. Did Mr Beer's questions all get answered?

Mr Beer: Here we get subjective. I thought Mr Ferren made an excellent attempt to answer virtually all of them, but no, there were some that weren't answered. He did, I think, provide answers to most of them; it's just that there were some where we're going to need more specific comment.

Mrs Cunningham: By tomorrow?

Mr Beer: You may wish to ask him. I can't remember, because I know he worked through them. There were a couple that frankly were perhaps more appropriately directed to the parliamentary assistant, and there was one that he responded to. I wasn't ticking them off as they went along, but why don't you throw out the ones that—

Mrs Cunningham: Well, what I thought might be useful is if they could be responded to, Mr Martin, in writing. They're all useful questions. We get these questions all the time. If they can be done tomorrow, it

would be great. Otherwise, I just think the questions should be answered in Hansard and everybody has them and we can send them out. If they're not in Hansard tomorrow, then we should have the responses anyway. It's just very helpful if they're done in Hansard because everybody who is interested picks them up with their local board and they're there. I'm just wondering if that's a possibility.

If they can't be answered, some of them, I think that's important too. That means we've got some areas that we're not sure about.

I have a couple of questions. With regard to this IPRC parent handbook and accountability, I'm just wondering, right now what do the school boards use to advise parents of process and whatnot? Are there not handbooks now that the school boards use? I certainly have one.

Mr Ferren: Yes, there is. Did you want me to answer it?

Mr Martin: However, the women who came from Sault Ste Marie, for example, pointed out to me that in that handbook there was no reference whatsoever to the hard-to-serve provision that was available, so there's stuff missing as far as some of the parents who are finding the process difficult at this point feel that they need to know more about.

Mrs Cunningham: Okay. Otherwise, you're updating? Anything you want to say would be helpful to me, because I just thought we had them.

Ms Goldberg: The regulation does have a requirement that the school boards provide a guide for parents.

Mrs Cunningham: Okay, and I think they're quite extensive. But Mr Martin certainly raised, I think, a valid point there: If it's not part of it, it should be.

My next question is this. Demonstration schools: When students are referred to demonstration schools, what does that really mean? What do you mean, "demonstration schools"?

Mr Ferren: "What is a demonstration school" is really the question, I guess.

Mrs Cunningham: If we're saying that you can be within schools that are demonstration schools or locally, give me an example of a demonstration school. How many do we have and how many, therefore, would be looking towards local placements?

Mr Ferren: There's a demonstration school in London, Roberts School. There's the Trillium School in Milton and there's the Sagonaska School in Milton and there's the Sagonaska School in Belleville. Then there's the demonstration school that is set up through an agreement with the University of Ottawa for the French-speaking students of the province in Ottawa. So there are really four: three anglophone and one francophone.

Mrs Cunningham: Okay. I'm going to put my two

cents' worth in here. The problem I have with increasing the numbers placed in demonstration schools by up to 20—I have nothing against programs that are successful; I think it's wonderful that these are successful—but I think the real goal for some of our special students is to help them and their families get through life.

1740

As young people become older, they will rely more and more on support systems within their own community and therefore ultimately, wherever possible, their family members. I just think it's so important, not unlike your early start in pre-school or junior kindergarten, whichever program or child care. I think it's just as important for these special young people to be in their own communities. I think that the intent by saying demonstration schools, of which we've got four or five, it's my understanding, we shouldn't be designating—and I know this is administrative, Mr Martin, and I think this is where you can be very helpful. I think you should be talking about 20 placements, because really we should be so supportive of young people being in their own communities, and if we don't do that now, we're never going to get any better at it. And trust me, these young people want to work, and for many of them their placements will lead them into the world of work, where they'll, in my view, with a supportive employer, be extremely helpful in their own community.

I'm speaking now as a parent, and I can tell you the happiest day of my own son's life was the day that he got a job. Most people wouldn't even today want to employ him, and there's more and more of that going on in our communities, but he never would have gotten a job in his own city or in his own community if it hadn't been for the work of his local placement and without his family supporting him and his ongoing friends.

It just really means that we have to reach out in our own communities for even those young people who go to school with others who are more difficult and challenged. It's all part of our responsibilities to help our fellow man. I maybe sound a bit altruistic, but I still think that's the best way of doing things.

So I guess I have problems with increasing the number of places in demonstration schools. I know these students are very hard to serve, but I just wish you were saying to increase the number of placements because we're getting better at it and we can do a better job in our own community.

What we really need is the flexibility to do it. I find that this is somewhat restrictive—and I'm not trying to be critical; it's just a point that I'm making, that's all—and I thought I had to say it. I don't really know what expanding the role of the provincial committee on learning disabilities is but I'm sure I'll find out. I know you've attempted to answer that, but it's just something that I felt I had to say.

The bottom line for so many of the decisions unfortunately is cost to school boards, and I just feel, like in the example that I learned about last week, that there are so many other ministries that ought to be involved. I think that the brief that was put to us by the Advisory Committee on Special Education talked about the responsibilities of Health and Community and Social Services. Many of the placements are actually in facilities that are supported by the Ministry of Health and in facilities that are supported by the Ministry of Community and Social Services.

I don't know, Mr Chairman, and perhaps again Mr Martin can answer the question. These decisions, I think, that are being made on behalf of these special students often have to be made with the other ministries involved, and I'd like someone to tell me that's happening more and more. These young people need the flexibility. If they have to move into a mental health institution for a while or a support mental health program, then when they're feeling better they should be able to move back into the regular school system. That's the kind of flexibility we need within our communities to make the positive outcomes that we're looking forward to.

Perhaps somebody could remark on both of my concerns, the 20 in the demonstration schools and the fact that Health and Comsoc ought to be part of the placement process with regard to funding.

The Vice-Chair: Mr Martin, did you wish to respond?

Mr Martin: Just very briefly, that's why in my comments and in the plan—

Mrs Cunningham: Actually, I might have read that there.

Mr Martin: —the ministry has laid out, number 4 on page 2 is:

"To facilitate the placement of a pupil whose primary need is for care or treatment in a government-approved section 27 facility."

Mrs Cunningham: Okay.

Mr Martin: Then, your first part of the question:

"Third, additional funding will be provided to some school boards to enable a number of pupils who are eligible to attend a demonstration school to receive additional supports in local settings where the committee decides."

I have to say it's definitely the government's intention, and I think it's reflected in our move to integration, to encourage education in local settings. But there may be a few pupils from time to time who may need the services or to be in a demonstration school in order to correct something or straighten something out and then come back again to the local setting. I think this will give the power to provide some assistance to that end.

The question of ministries working together: We're working on that, and hopefully there will be some fruit to that labour in the not-too-distant future around the responsibility that Health and Comsoc have in some of these areas. I agree with you that more of what schools are being expected to do should in fact be in the bailiwick of those two ministries and we should be doing what we can to make sure that happens.

The Vice-Chair: Mr Hope, did you want to—

Mr Hope: Just to comment, and it's nice that provincially we're doing that, but, Dianne, you were referring to the community and local communities, and I think what we have to do is tear down some of the walls that are established in our communities between Health, Social Services and Education to work in a more positive way. If the community is sincere in what it's trying to achieve, those walls should be much easier to remove. We get tied up in the bureaucratic or paperwork aspect of it, and I believe if provincially—and I know it's happening with child care and other initiatives, we're working together on things, but reflecting on your comments, where you talked about the community, I think the community has to identify tearing those walls down and working for the betterment of people in our communities who we all represent.

Mr Beer: Just very briefly, because it speaks to what everyone has just been saying, I think, to remind ourselves of the direction of the report Children First, which was one that had a lot of not only professional but parental involvement and obviously the key is finding how you get all of those different sectors to be involved, but I think there is a consensus out there now that that's what we ought to be doing and it might be something in a future time where this committee could be useful in exploring some ways that could be done.

The Vice-Chair: Thank you. That completes discussion. You have the handout with the proposed motions.

Mr Martin: Randy's going to have one.

The Vice-Chair: Yes, but before that we have a motion on the floor proposed by Mr Beer and that is out of order, so we'll proceed. Ms Cunningham, you had a proposed amendment to the same wording in effect.

Mrs Cunningham: Yes, and I understand that it's out of order.

The Vice-Chair: Yes. We'll proceed then to the second Liberal motion regarding Bill 15. Would it be in order to proceed to the amendments by Mr Hope that had been handed out previous to that, to get that proceeded with?

Mr Beer: Yes, it would be.

The Vice-Chair: Thank you.

Mr Hope: Is this being withdrawn?

The Vice-Chair: No.

Mrs Cunningham: It's just out of order.

Mr Hope: No, the other one.

Mr Beer: It's the second one. I'm quite prepared to withdraw that, given the discussion we've had and the motion we're about to hear.

The Vice-Chair: Mr Beer, you're withdrawing the second amendment?

Mr Beer: Yes.

The Vice-Chair: The lengthy amendment to section 15.

Mr Beer: The lengthy amendment, unless you wanted me to read it.

The Vice-Chair: Perhaps it could be read after the meeting, if you would like. Mr Hope, would you proceed?

Mr Hope: I have a motion. I move that clause 15(2)(a) of the bill be amended by striking out "2nd" in the third last line and substituting "30th."

The Vice-Chair: Discussion? Any question about that?

Mr Beer: Just briefly to indicate that we will be supporting that, and the member for London North, Mrs Cunningham, who is not able to be with us right now, has also asked me to say that she would support that motion as well.

The Vice-Chair: Shall the amendment carry? Thank you. Proceed.

Mr Hope: A further motion. I move that clause 15(2)(a) of the bill be amended by striking out "and" at the end.

The Vice-Chair: Any discussion? Shall the amendment carry? Carried.

Mr Hope: I have a further motion I wish to move. I move that clause 15(2)(b) of the bill be struck out.

The Vice-Chair: Discussion?

Mr Hope: A technical question. I don't know if that motion is in order, now that I've just read it. Wouldn't it be just to vote out that section of the bill?

The Vice-Chair: It's in order, I'm advised, because it's striking out a subsection rather than a complete section.

Mr Hope: So I move it.

The Vice-Chair: Thank you. Discussion?

Mr Beer: Just one question I wanted to put. I think I understand the answer, but just so it's clear, in terms of what we're doing with the motion that we've accepted, where we changed June 2, 1992, to June 30, it is our understanding that it then covers anyone who is in the hard-to-serve process, if I can put it that way, and that following that date, there is not somebody in that situation. Presumably, others will be dealt with in terms of what we have been discussing. With the one you've just put on in terms of 15(2)(b), that just elimin-

ates that clause; for anyone who had any concerns about being forced to pay, that just takes it completely out and there's no problem with that. I just wanted to be clear on that for the record.

1750

The Vice-Chair: Do you wish to respond?

Ms Goldberg: Anybody who was found to be hard to serve by June 30, 1992, will continue to have their education paid for for one more year, assuming of course that this bill doesn't pass in the next two days.

Anybody who has been found to be hard to serve after June 30, 1992—we're not aware of anyone in that category, but if there is anyone, then we would not be paying for their education, and we aren't doing so at the present time either.

The Vice-Chair: Anything further on that?

Mr Hope: I believe this fixes some of the problems of the individuals who came before this committee, who addressed some concerns about the June 2 date. This has been notified to the broader public in a previous bill, and I think it only clears up the uncertainties that were there and that were presented before this committee. I believe the amendment is a positive one that will now clear up all misunderstandings.

Mrs O'Neill: Mr Chairman, I'm not sure it's all misunderstandings. You say for one year, so we're talking about June 1994? What happens in September 1994? Who pays then?

Ms Goldberg: If they continue to remain in the private school, then presumably it would be their parents who pay. But we were hoping that the new regulation that we're going to be drafting would be able to take care of those students.

Mrs O'Neill: You're talking about the one you've just presented today?

Ms Goldberg: Yes, that's right.

Mrs O'Neill: So at this particular moment, where is it in writing that they're guaranteed the tuition for one more year?

Ms Goldberg: In 15(2)(a).

Mrs O'Neill: I'm still uneasy. Would it mean they'd have to go through the whole process to continue in a successful placement? We're talking about six students in Ontario. I certainly don't have the information—maybe some of you do—but are they all within one year of graduation? I doubt it. So what's going to happen?

You're saying this new regulation will help, but does that mean that these parents who have been through the mill already and have a successful placement—and we've heard from two of them at least, I think three—will then have to start the process all over again to fit into a new scheme that we were presented with this afternoon?

Ms Goldberg: We're aware right now of three

students who are presently being funded. They'll be funded for one more year. After that, we expect that they will be accommodated at the board through the new process, either in a board program or perhaps in a demonstration school.

Mrs O'Neill: And the board won't be able to use the right it has now to purchase service?

Ms Goldberg: The boards don't have a right at the present time to purchase services from a private school.

Mrs O'Neill: So we're talking about a private school. Well, that's very fuzzy. It certainly won't give those three people too much security for the next few months. I hope there will be some very individual counselling and work with those people, because we saw two of them right in this room, and the other one has contacted us. They're not feeling terribly comfortable with this piece of legislation, we know that, and I'm not sure they're going to be much more comfortable with what you've just said. Three people out of 10 million, and we can't give them the certainty until the student arrives.

Mr Hope: I think it's in the best interests of the three individuals, speaking to the amendment we just moved, that the people who are here today cooperate to work as advocates with them to understand the process and the change that has now been implemented. For the three individuals Mrs O'Neill indicates, I believe the ministry could work effectively and efficiently with them for a clear understanding so the fuzziness is gone.

The Vice-Chair: Shall the third amendment proposed by Mr Hope to strike out clause 15(2)(b) of the bill carry? Carried.

Shall section 15 of the bill, as amended, carry? Carried.

Mrs O'Neill: Mr Chairman, could we have the parliamentary assistant tell us he will take that situation, which is a very serious situation, to the minister?

The Vice-Chair: Mr Martin, would you respond?

Mrs O'Neill: I think I need a commitment, as a politician, to help those parents. I think I need some kind of commitment from some of the politicians. I've had it from Mr Hope, but he's not the parliamentary assistant in this area.

Mr Martin: The whole purpose of the work that we've done around this piece over the last month or so has been to that end. We wouldn't have done it had we not had a commitment to serving and seeing the needs of those students and those families met. I've no difficulty committing that we'll continue that process and continue to try, in the ways that we have at our disposal, to meet the needs of those parents and those students.

Mrs O'Neill: And as to those who are in successful programs, hopefully they'll be able to be maintained there? I can't get that, but I tried.

The Vice-Chair: Does that complete your submission?

Mrs O'Neill: Yes.

The Vice-Chair: I see it's almost time to adjourn. Before adjourning, we have two proposed amendments to section 16, both of which are to strike out section 16, and both motions are out of order. In view of that, those amendments being out of order, shall section 16 carry?

Mr Hope: Mr Chairman, on a point of procedure: Shouldn't the motions be read in first before they're ruled out of order? How can you rule something out of order that hasn't been put on the record?

The Vice-Chair: It's not on the record; that's correct. In view of that, Mr Beer: One was a Liberal motion; the other, of course, is a PC motion.

Mr Beer: They are identical motions, and I believe I can speak for both Ms Cunningham and myself. I will read it, but given what we have just done to section 15, as you say, these are out of order anyway.

I move that section 16 of the bill be struck out.

The Vice-Chair: Mr Beer, your motion is out of order. We have a problem, however, with the PC amendment.

Mr Hope: I'll move that on behalf of Ms Cunningham.

The Vice-Chair: I don't know that I can accept that. If we're going to be technical, we should be technical all the way.

Mr Hope: That's right. I was just trying to be helpful. You know how I am, eh?

The Vice-Chair: I've noticed on occasion, yes, that you are helpful.

Mrs O'Neill: On occasion. I'm glad you qualified.

The Vice-Chair: Is it agreed then that, subject to the protest of the proposed mover of the PC proposed amendment, you accept the decision? I guess it should be read, though, first. Is someone prepared to read it into the record? It's been pointed out that the motions must be read into the record.

Mr Beer: I move, on behalf of Ms Cunningham, that section 16 of the bill be struck out.

The Vice-Chair: Thank you.

Mr Hope: You've got to rule it out of order.

The Vice-Chair: The motion is out of order.

Mr Beer: I will tell her.

The Vice-Chair: Thank you for taking that adventure.

Shall section 16 carry? Carried.

It now being shortly after 6 of the clock, the committee is adjourned until tomorrow, as I understand it, to complete clause-by-clause.

The committee adjourned at 1801.



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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Malkowski, Gary (York East/-Est ND) for Mr Owens

Also taking part / Autres participants et participantes:

Ministry of Education and Training:

- Ferren, Peter, education officer, special education and provincial schools branch
- Goldberg, Deborah, legal counsel
- Grootenboer, Theo, senior manager, school business and finance branch
- Lindhout, Julie, director, legislation branch
- Martin, Tony, parliamentary assistant to the Minister
- Riley, Michael, legal counsel
- Roy, Laury, education officer, curriculum policy development branch

Clerk pro tem / Greffière par intérim: Pajeska, Donna

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Standing committee on social development

Education Statute Law
Amendment Act, 1993

Comité permanent des affaires sociales

Loi de 1993 modifiant des lois
en ce qui concerne l'éducation



Chair: Charles Beer
Clerk pro tem: Donna Pajeska

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 29 June 1993

The committee met at 1530 in room 151.

EDUCATION STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION

Resuming consideration of Bill 4, An Act to amend certain Acts relating to Education / Loi modifiant certaines lois en ce qui concerne l'éducation.

The Vice-Chair (Mr Ron Eddy): Good afternoon. I believe when we left off we had just completed section 17 in clause-by-clause consideration.

Shall sections 17 and 18 carry? Carried.

Section 19, a proposed amendment; Mr Hope, I believe. Are you going to introduce an amendment on section 19?

Mr Randy R. Hope (Chatham-Kent): As soon as I find them.

Mr Charles Beer (York North): The new?

The Vice-Chair: Yes, it's new.

Mr Hope: I take it section 16 of the bill—

Mr Tony Martin (Sault Ste Marie): Section 19.

Mr Hope: If you've got it, Tony, go ahead.

Mr Beer: I have a copy. Would it be of help to anybody?

The Vice-Chair: Do you wish a copy, Mr Hope?

Mr Hope: Well, the order that I left off, there still was a PC motion.

The Vice-Chair: That was withdrawn. You're talking about section 16?

Mr Hope: Yes.

The Vice-Chair: We'd agreed that would be withdrawn because it was to strike out a section and was therefore not in order, as I recall.

Mr Martin: I can read that in if you want.

The Vice-Chair: Mr Martin is prepared to read it in.

Mr Hope: I would be pleased if he did.

Mr Martin: Don't you forget that.

I move that the bill be amended by adding the following sections after section 19:

"19.1 Subsection 49(6) of the act is repealed and the following substituted:

"Fees for pupils

"(6) Despite any other provision of this part, if a board admits to a school that it operates a person who is a visitor within the meaning of the Immigration Act (Canada)"—

Mr Hope: On a point of order, Mr Chairman: Before it goes on any further, one thing that is important about this amendment is that it needs unanimous consent in order that—

The Vice-Chair: Thank you, Mr Hope, but as you pointed out yesterday, the motion has to be read before I can make a comment on it. You were forceful in that comment, and therefore I was proceeding along the lines that we have to know what we're dealing with before I can make a decision whether it's in order or out of order. Do you not agree?

Mr Hope: All I was trying to do, and I agree with what—

The Vice-Chair: Please, Mr Martin, would you complete the reading of the proposed amendment.

Mr Martin:—"or a person who is in possession of a student authorization issued under that act, the board shall charge the person the maximum fee calculated in accordance with the regulations.

"19.2 The act is amended by adding the following section:

"Persons unlawfully in Canada

"49.1 A person who is otherwise entitled to be admitted to a school and who is less than eighteen years of age shall not be refused admission because the person or the person's parent or guardian is unlawfully in Canada."

The Vice-Chair: Thank you. As Mr Hope has helpfully pointed out to the Chair, this proposed amendment is in fact out of order and, as I understand, can be introduced only with unanimous consent. Would you care to explain, Mr Martin, why it's important that it be presented and asked for unanimous consent?

Mr Martin: This amendment requires unanimous consent because it refers to a section of the Education Act not already dealt with in Bill 4. The amendment is being put forward to accomplish the objective of Bill 24, a private member's bill proposed by Mrs E. Caplan, MPP, Oriole. Although the wording of this amendment is not the same as that contained in Bill 24, it is the advice of legal counsel in the ministry that this wording accomplishes the objective better.

The intent is to ensure that the children of illegal immigrants are not penalized for their parents' status. The amendment would ensure that such children could attend school without fear of reprisal or exorbitant cost.

The inclusion of this amendment was debated at second reading of Bill 4. As well, the parliamentary assistant indicated in his opening remarks to the com-

mittee that the government would be proposing this amendment.

Bill 24 received second reading on June 11, 1992. The bill has been referred to the standing committee on social development. Mrs Caplan supports this amendment to deal with the intent of her bill being dealt with as an amendment to Bill 4.

The Vice-Chair: Are there any questions regarding that explanation at this time?

Mr Hope: Do we approve unanimous consent?

The Vice-Chair: Well, no, but it's from an information point of view. I would ask you to bear with me. I thought that we should have an explanation and then any questions before we ask for unanimous consent. However, we can do it the other way. I think we're all clear on why it's really out of order. Perhaps we should have a mover of the motion, though, before I can rule it out of order.

Mr Martin: I moved it already.

The Vice-Chair: Did you move it? Thank you, Mr Martin. Okay, was there a question, Mr Beer?

Mr Beer: Sorry. If you needed a seconder, I would be happy to second it, and we would give unanimous consent.

The Vice-Chair: Oh, unanimous consent? Thank you. Anyone else wish to speak?

Mr Beer: I just had a comment once that was dealt with, Mr Chair.

The Vice-Chair: Do we have unanimous consent to introduce this amendment, which is out of order? Agreed. Okay. Mr Beer.

Mr Beer: Just simply to say that what Mr Martin noted is what had been discussed with Mrs Caplan, who, although she's not here, had also asked that I simply state that she is in agreement with this amendment.

I think also, as Mr Martin has said, the purpose, the intent, of the amendment is just to make sure that, whatever the problems are that deal with the Immigration Act or with the situation of refugees, the problem not be placed upon the children so that they're unable to go to school and the rest of us adults deal with the other problems. That's the intent, and I think it's expressed in this amendment.

The Vice-Chair: Other comments or discussion? If not, shall the amendments to sections 19.1 and 19.2 carry? Carried.

Shall section 19, as amended, carry? Carried.

Shall sections 20 to 27 carry? Carried.

Section 28, Mr Beer.

Mr Beer: Chair, there are, as you can see, two amendments here. They're identical, both from the Conservatives and from the Liberals. I will, if that is in

order, simply read our amendment.

I move that paragraph 6.2 of section 170 of the Education Act, as set out in subsection 28(1) of the bill, be struck out.

I think we have discussed the junior kindergarten issue. There are a number of amendments that flow from earlier amendments which were defeated and, as I say, I think we have had an airing of that and would simply move this motion.

Mr Hope: Did you say there were Liberal amendments to this too?

Mr Beer: There are two amendments. They're identical. Both the Liberals and the Conservatives have moved the same motion, and I'm simply saying, Mr Hope, that I think we've had a fairly full discussion and would simply move the amendments.

Mr Martin: I'd just like to comment that the government is not accepting this amendment. Paragraph 6.2 of section 170 would make it a duty of boards to operate junior kindergarten after August 31, 1994, unless given an exemption. Since the government intends to proceed with junior kindergarten, we cannot accept the deletion of the paragraph, as proposed.

The Vice-Chair: Shall the amendment carry? All in favour? Opposed? Amendment lost.

The PC amendment, because it's identical wording, is therefore lost as well.

Further amendments, subsection 28(3).

1540

Mr Beer: Mr Chair, I wonder if I might suggest, because the Conservative member's not here to move her motion, is it in order to deal with other motions under 28 and just to stand that one down?

The Vice-Chair: Is it agreed that the proposed amendment to subsection 28(3), PC motion, be stood down at this time? Agreed.

Mr Beer: Could I then go forward with an amendment to subsections 28(4) and (5)? Again, members would note that our amendment and that of the Conservatives are identical, but I will read that amendment into the record. That's subsections 28(4) and (5) of the bill, subsections 170(2) and (3) of the Education Act.

I move that subsections 28(4) and (5) of the bill be struck out and the following substituted:

"(4) Section 170 is further amended by adding the following subsection:

"s. 67 school districts

"(2) Paragraph 6.1 of subsection (1) does not apply to the board of a secondary school district established under section 67."

By way of explanation, this is another amendment that fits in with the amendments that we had put forward with respect to junior kindergarten. It had been our argument that those programs continue to be

optional, and this was to fit with that. I think we had a full discussion of that, both yesterday and last week, and I would simply put the motion at this time.

Mr Hope: Just to state for the record, the government will not be supporting the amendment being put forward.

The Vice-Chair: Shall the amendment to subsections 28(4) and (5) carry? All in favour? Opposed? Amendment lost.

Is it agreed then that the PC amendment, 28(4) and (5), is the same wording? Is that correct?

Mr Hope: Just out of curiosity, Chair, is the member coming?

Interjections.

Mr Beer: I understand that the member for London North will be here shortly and has just asked if we could simply stand down any individual motions. Perhaps we could do that, because I think there are a number where the amendments are the same. We can deal with those and then she'll move hers when she gets here.

The Vice-Chair: Shall the proposed amendment to subsection 28(6) of the bill be stood down at this time? Agreed.

Section 29, proposed amendments.

Mr Beer: Again, with respect to this we have an amendment, as do the Conservatives. It is the same amendment, which I will read. But just to underline, it's a similar amendment and again it relates to junior kindergartens.

Subsections 29(1) and (2) of the bill, paragraph 15 of subsection 171(1) of the Education Act:

I move that subsections 29(1) and (2) of the bill be struck out and the following substituted:

"(1) Paragraph 15 of subsection 171(1) of the act is repealed and the following substituted:

"junior kindergartens

"15. operate junior kindergartens."

I'd simply note that this fits in with the other amendments that we had proposed. We had a full discussion of that yesterday and I would move the question.

The Vice-Chair: Shall the proposed amendment to subsections 29(1) and (2) carry? All in favour? Opposed? Amendment lost.

Further amendments to section 29?

Mr Beer: Again, Mr Chair, there is a Conservative motion, if that could be stood down.

The Vice-Chair: Agreed. Stand it down at this time.

Mr Beer: There are two amendments to the same section, but ours in this instance is different from the Conservative one. With the agreement of the committee, we can either go ahead and discuss that, or if perhaps we want to wait for the member for London North, we

could deal with the government motion to section 40. I simply make that suggestion.

The Vice-Chair: Your proposal is to go on to section 30?

Mr Beer: I was going to suggest section 40. There are two government motions, one for section 40 and one for section 50, which I don't believe are ones where there is any disagreement. If we deal with those, the member for London North might be with us.

The Vice-Chair: Does the committee agree that we should move to section 40 at this time? Agreed.

Mr Beer: Mr Hope's simply suggesting we deal with the ones that we can deal with and then when Mrs Cunningham gets here, we can deal with hers.

The Vice-Chair: So we're at section 40. There is a proposed amendment to be introduced.

Mr Martin: I move that section 40 of the bill be amended by adding the following subsection:

"(2) Section 309 of the act is amended by adding the following subsections:

"French day nurseries

"(2) The establishment, operation and maintenance by a board of day nurseries in which French is the language ordinarily spoken is within the exclusive jurisdiction of the French-language section of the board.

"Corporation

"(3) For the purpose of subsection (2) and the Day Nurseries Act, the French-language section shall be deemed to be a corporation."

The Vice-Chair: Excuse me, apparently copies of that proposed amendment have not been circulated. The one that we have in our packet uses different numbers in the corporation. I think you've noted that.

Mr Beer: Thank you, Mr Chair. I was wondering about that too.

The Vice-Chair: It'll be handed out now. Sorry. Mr Martin's is correct as he's read it. This motion is out of order as well and unanimous consent will be required to introduce it. Do we have unanimous consent to introduce the amendment at this time?

Mr Beer: Yes. Agreed.

The Vice-Chair: Thank you. Mr Martin, do you want to explain first?

Mr Martin: Yes. The minister has received letters from the office of francophone affairs and the Ontario Teachers' Federation, as well as requests from a number of francophone organizations, asking that French-language sections be permitted to hold licences to operate francophone day nurseries.

Currently, Bill 4 only permits boards to hold licences to operate day nurseries. There is no provision for French-language sections to hold licences to operate day care services on their own. Therefore, a board could

veto a French-language section's request to establish a day care centre.

The francophone community feels very strongly that French child care centres operated by French-language schools would play an important role in preventing assimilation that otherwise can occur when French children receive English-language child care services. The amendment permits French-language sections to establish, operate and maintain day nurseries in which French would be the language spoken. In order to allow the section to hold a licence to operate a day nursery, the French-language section is deemed to be a corporation only for the purposes of the Day Nurseries Act.

That's it, Mr Chair.

1550

M. Beer: J'aimerais dire que nous allons appuyer cette motion. Je pense que c'est un changement à la législation qui est important surtout pour la communauté francophone, parce qu'en ce qui concerne la Loi sur les garderies, il est important, là où le conseil va gérer une garderie, que ce soit la section française qui ait les pouvoirs de le faire.

Comme M. Martin vient de nous le dire, c'est quelque chose que la communauté francophone nous a demandé. Donc, je pense que ça donne une direction claire, pas simplement au conseil mais surtout aux sections françaises.

The Vice-Chair: Shall the amendment to section 40 of the bill carry? Carried.

Shall section 40, as amended, carry? Carried.

Shall sections 41 to 49 carry? I have no proposed amendments listed for those sections. Carried.

Section 50: Mr Martin.

Mr Martin: Yes. I move that the bill be amended by adding the following section after section 50.

"50.1 Subsection 9(4) of the act is amended by striking out 'Sections 41 to 49 of the Education Act' in the first line and substituting 'Sections 41 to 49.1 of the Education Act.'"

The Vice-Chair: As this proposed amendment is also out of order, can we have unanimous consent to consider it at this time? Agreed.

Mr Martin, did you wish to explain?

Mr Martin: This is a companion motion to the amendment incorporating the intent of Elinor Caplan's bill regarding children of illegal immigrants. It's a housekeeping item which flows from that amendment.

Mr Beer: We agree with that amendment, Mr Chair.

The Vice-Chair: Shall the amendment to section 50.1 of the bill carry? Carried.

Shall section 50, as amended, carry? Carried.

Shall sections 51 to 58 carry? Carried.

Section 59: Mr Beer.

Mr Beer: Again, here there are two amendments to 59 which also speak to the issue of junior kindergarten. In each case, there is an identical motion by both the Conservatives and the Liberals. I will deal first of all with an amendment to subsection 59(1) of the bill.

I move that subsection 59(1) of the bill be amended by striking out "subsections (2) to (9)" in the first line and substituting "subsections (2) to (8)."

As I mentioned earlier, we had a full debate on the issue of junior kindergarten. This relates to the mandatory nature which we had said should be left optional, and I would move the question.

The Vice-Chair: Shall the amendment carry? In favour? Opposed? Amendment lost.

Mr Beer: The second amendment is to subsection 59(9), and again this is an identical motion, both the Liberal and Conservative caucuses.

I move that subsection 59(9) of the bill be struck out.

This again relates to the issue of junior kindergarten, and I would move the question.

The Vice-Chair: Shall the amendment carry? All in favour? Opposed? Amendment lost.

Shall section 59 carry? Carried.

Shall section 60 carry? Carried.

Mr Beer: I'm wondering if I might suggest a five-minute recess. We just have a couple of amendments, but perhaps we can get all the players together so that we can deal with those expeditiously.

The Vice-Chair: Thank you for the suggestion. Is it agreed that the committee recess? Thank you.

The committee recessed from 1558 to 1603.

The Vice-Chair: The standing committee on social development on Bill 4 is now reconvened. We'll revert back to subsection 28(3) of the bill. Is there a proposed amendment to section 28 at this time?

Mrs Dianne Cunningham (London North): Mr Chairman, I appreciate the fact that the committee moved forward knowing what I would support, and I do support what's happened so far.

I move that subsection 28(3) of the bill be struck out, and I would like to give my rationale for that.

During the committee hearings, we heard from the Ontario Public School Boards' Association and it did not support the amendment which provided boards with the authority to require a deposit for textbooks provided to pupils enrolled in a continuing education credit course. They said that if adult education is to be recognized as a legitimate component of the education system, then adequate and equitable funding must be guaranteed by the provincial government to provide for textbooks for these programs. I thought this would be worthy of some discussion. I personally have mixed feelings about it, but I wondered if the rationale could be provided to the committee for the government

putting forward this recommendation.

Mr Martin: I believe Julie is prepared to speak to that.

Ms Julie Lindhout: This particular amendment, as you're probably well aware, has been part of previous bills, and at the time it was introduced there were some discussions with school boards about asking school boards to provide textbooks free of charge to adult students in continuing education credit courses, for which they can now require students to pay for the textbooks or provide their own. Some boards are in fact providing the textbooks to the students and are seeking some deposit.

When it was suggested that these boards might comply with that, the ministry was told by a number of boards—not by the OPSBA officially, but by a number of individual boards—that the continuing education population is a more volatile population and there might be difficulty in ensuring that the textbooks were always returned. They have more control over the day school population in that sense. Therefore, in order to give the boards that comfort level, this amendment was introduced that would allow them to require a deposit, but does not require them to require that deposit.

Mr Beer: We have been in remarkable agreement with our colleague from London North on many amendments. I have to say that on this one, while I appreciate the point she has raised around adult education and wanting that to be accessible, in the case of several boards that have been in contact with me, this question of the shifting population and problems around textbooks has been raised. It seems to me, perhaps as a question, that this would be something where the boards could establish a fee for the textbooks, but as a deposit that would be returned. Textbooks these days are very expensive, and it seems to me that perhaps it is not unreasonable that this possibility would be open to school boards to do that.

The member for London North perhaps has some other thoughts on this, but it would be my inclination that the government's proposal is in order and should be supported.

The Vice-Chair: Shall the amendment carry? Those in favour? Opposed? The amendment is lost.

Further amendments to section 28?

Mrs Cunningham: I move that section 28 of the bill be amended by adding the following subsection:

“(6) Section 170 is further amended by adding the following subsection:

“Notice of offences

“(4) If the minister receives a notice under paragraph 12.1 of subsection (1) in respect of a teacher who has been convicted of an offence, the minister shall not cancel the teaching certificate of the teacher while the conviction is under appeal.”

Mr Hope: There is an amendment before that. Are we taking that Conservative amendment 28(4) and 28(5)—

Mr Beer: We've dealt with those.

Mr Hope: But there was a Conservative amendment.

Mrs Cunningham: In my absence, Mr Beer probably put on the record that we had similar amendments earlier today. I'm appreciative of the process.

Mr Beer: In each case, Mr Hope, I did note that we both had the same amendment where that was the case, and we dealt with those.

The Vice-Chair: Then are we agreed that we proceed with the proposed amendment to subsection 28(6)?

Mrs Cunningham: I just want to read the rationale for this into the record. It adds the following sentence to the legislation: “The Minister of Education will not cancel the certificate of the convicted teacher if the conviction is under appeal.”

This amendment is brought to the committee for its consideration by the OSSTF because it has pointed out that it's concerned that due process be respected for all board employees and that no teacher's certificate be cancelled until any appeal has been heard.

I would stand to be corrected by the administration here, but it's my understanding that this would be the practice anyway. I'm not sure, so if there's any discussion or response, I'd appreciate it.

Mr Martin: Perhaps counsel Goldberg could speak to that.

Ms Deborah Goldberg: We're advised that that is the present practice.

Mr Beer: I want to make sure I understand. I know the OSSTF had this proposal; just to be clear, are we saying that at the present time, where a teacher has been convicted, the teaching certificate is not revoked while that is under appeal? Is that a certainty? I'm just trying to distinguish between what one hopes is done versus what is actually done, because it really speaks to whether there is a literal need for this amendment. I think the point about due process is one that we would all be concerned about, and I just want to be clear on the practice.

1610

Ms Goldberg: That is the practice now to do that.

Mr Beer: Given the act as it is right now, could the minister cancel a teaching certificate while the conviction was under appeal?

Ms Goldberg: Under the present legislation, yes, the minister would have the power to do that, although the practice is not to do it.

Mr Beer: I take it the reason the government has not agreed to this is that you want to maintain at least the right to do that. Could you explain that? Are there

certain kinds of circumstances, or is it just the concern that there might be something you can't foresee?

Mr Michael Riley: I think it's in order to maintain the minister's discretion in its present form. The minister currently has a general power to cancel or suspend certificates, and with this bill there is a provision now for notice of criminal convictions, and we just don't see it as appropriate. It's possibly mischievous if the proposed change is made, because of the possibility that there may be circumstances in which it may not be appropriate to let the teacher continue to teach, or, on the other hand, there may be a decertification that ought to be made notwithstanding whether or not there is a conviction. We just don't see that the minister's discretion should be closed in in this way because of the possible variety of circumstances that may arise.

The Vice-Chair: Shall the amendment carry? All in favour of the amendment? Opposed? Amendment lost. Shall section 28, as amended, carry? Carried.

Are there further amendments to section 29? That is subsection 29(3), I believe.

Mrs Cunningham: I move that paragraph 31.1 of subsection 171(1) of the Education Act, as set out in subsection 29(3) of the bill, be struck out.

But I don't think it's in order now. It would be out of order because the amendment failed; therefore, the paragraph still has to stay. So I would withdraw that, Mr Chairman. Am I correct in that regard?

The Vice-Chair: Yes. Further amendments to section 29?

Mr Beer: Mr Chair, I wonder if I could make a suggestion here. We have an amendment to 29(3), as do the Conservatives. I'm just wondering in terms of the order. Our amendment is to amend the government proposal; the Conservative amendment is that a clause be struck out. I wonder if it's agreeable whether we might deal with our amendment first, just because of the nature of the two.

The Vice-Chair: Proceed, Mr Beer.

Mr Beer: I move that paragraph 49 of subsection 171(1) of the Education Act, as set out in subsection 29(3) of the bill, be struck out and the following substituted:

"Day nurseries

"49. establish, operate and maintain day nurseries within the meaning of the Day Nurseries Act, subject to that act, if the board is of the opinion that there are not enough day nurseries in the area of jurisdiction of the board in which a majority of the board of directors is composed of parents of children enrolled in the day nursery."

This is another very important part of the act, where, in discussion in second reading, it was indicated that school boards want to be able to establish, operate and

maintain day nurseries under certain circumstances.

The concern we have had with this has not been the substantive point of whether school boards may, under certain conditions, operate day nurseries. The concern has been that we have not had a broad debate yet about the future direction of day care and the place of the education system and the place of the management of the system by education.

There are a number who have said, "Look, we want to limit what the boards of education would do with day care at this time until we have an opportunity to deal with those broader issues." As I think you're aware, Mr Chair, there was a draft cabinet document that circulated a while back that talked about possible roles not just for the Ministry of Education and Training but Community and Social Services, for an amalgam, sort of a day care council. I think we need to have that debate at some time, but it's important that we indicate that this particular amendment the government is putting forward is not to be a backdoor way to bring the Ministry of Education in to in effect take over the operation of day care in the schools.

We understand from certain boards that there have been difficulties in some instances in finding a citizens' or a community group to operate a day care, so we don't have an argument with the authority this would provide to the school board to do that. The intent of our amendment is to make very clear that there is a limited field for that and that what we're really after is still the community being involved in the operation of the day care; if you like, that the school board doing that is a last resort. That's why we have put this forward.

I think at some future time we're probably going to have that broader debate, when the government comes forward with its proposals for the preschool group. But in a sense, there isn't a context here for what the government has proposed that makes us comfortable with it the way in which it is currently worded, and that's why we've put this particular motion forward.

Mrs Yvonne O'Neill (Ottawa-Rideau): If I might just add to that, if I remember correctly, the strongest representation on this issue was from the Ontario Separate School Trustees' Association. The leaked cabinet document has definitely sent some waves throughout the system. Now that that document is floating, boards think there's much more consultation, much more program and policy development that they want to see before they strongly agree with this. There are cautions. They're worried about whether they will be expected to manage the facility and what their input will be. Up to this point, it's been very voluntary and in many cases almost just a premise use.

1620

Many people, certainly including parents, are worried about the role of parents and whether we will have a board that is truly representative of parents. That's part

of our amendment, as you see. Will the staff be employed by the school board or will they be a sub-corporation within the school board? That would certainly be a very complex arrangement. And the fundamental question is, where is the commitment to funding? It's fine to say this is going to be happening, but we all know the difficulties of child care in this province right now. We know the difficulties of balancing subsidized spaces with the full-fee-paying spaces. There are definitely a lot of cautions around this, and that's why we think this amendment is essential to express some of those fears and doubts that people have.

Mr Martin: This amendment seems to try to set conditions under which boards may operate a day nursery. We see it as an unnecessary restriction on the circumstances in which a board may operate. We presume boards will exercise good judgement about relevant factors as to when it would be appropriate for a board to operate a day nursery. I'd like to offer an example. There may be many parent-operated day cares within the board's territory; however, the board may feel that an onsite day care should be operated to meet the needs of school pupils, who are themselves parents, needing to put their child in day care.

I would also invite the two folks who have joined us here, one from the Ministry of Education and Training and one from the Ministry of Community and Social Services, to perhaps answer some of the other questions that the members have raised, if you'd like. We have Trish Baynham, from the child care branch of Community and Social Services, and Pat Dickinson, from the Ministry of Education and Training. She works in child care for that ministry.

Ms Patricia Dickinson: We come very much as partners, in the spirit of partnership, and Trish is going to speak to some of those issues.

Ms Patricia Baynham: First of all, the issue of school boards holding a licence has been under discussion between the two ministries and with school boards for quite a few years, ever since I've been dealing with this issue, which is five years. In various consultations we have undertaken, there's been quite a bit of support generally from boards to at least have that option, and that is really all this was meant to enable.

The issue raised by Mr Martin is around situations where parent boards, experience has shown, are not the most effective board of directors; they're very transient and moving on. It doesn't support a stable governance of a child care centre. I think that is a good example.

Also, there are many operators of child care programs in the province that are not operated by parent boards, and I think the best example of that is the YMCA, that operates by far and away the most school-based child care. They do not have the parent board. What our ministry has encouraged in the past, and the Y has been

very quick to accommodate, is site-specific parent advisory committees so that there is a vehicle for parent involvement, if that's the key concern.

I think our ministry has very clear expectations around parent involvement; in fact, we've been consulting over the last year or so around even strengthening those further and being more clear to licence holders how they have to involve parents. If a school board were a licence holder, it would be required to meet those same conditions as any other licence holder, so I think some of those concerns can be considered dealt with.

Mrs O'Neill: That may be fine, although the parents do not have access to those licensing conditions, and they're also all by regulation. We feel very strongly about parental involvement in child care; that's fundamental to us. That's why we feel that this amendment must state that, so that everybody in the community will know that's the thrust of the government, and I hope it is. It's certainly our intent.

Mrs Cunningham: I think this is a positive recommendation. My colleagues have taken the intent of subsection 29(3) of the bill further and given more direction, which I approve of. In fact, it meets with the observations we've just been given.

Actually, I should take time to say hello to a couple of my former colleagues. Five years ago, I didn't really expect to be here and I don't think they thought I would either, but here I am, all working towards the same goals with the same attitudes and asking the same questions. They can probably hardly believe we've made so few gains in this area.

As far as I'm concerned, I don't think there's been the public discussion in communities across Ontario. I said it yesterday so I'll keep it short today: I don't really think the basic premise of what we're trying to do with three- and four-year-olds in our schools has been discussed, and my main concern would be around the program area, the difference. There are differences. If there weren't differences, Education wouldn't be running programs for three-year-olds and the Ministry of Community and Social Services running programs for three-year-olds.

I think we've learned a lot from the child care people in our school systems. School-based child care has taught us a lot about whether or not we can have parents involved. We've seen where they're successful and we know why they're successful. A lot has happened in that regard in the last few years.

I've certainly said that I don't really think the school boards should have this responsibility, given the fact that we're talking about this separate from the whole issue of what the program ought to be and who should run it. If the school boards are going to be responsible for operating child care centres in the schools, we

obviously have to make certain that the issues of who pays are worked out, what the staffing requirements and qualifications should be. I find this is a very piecemeal way to talk about how we care for our young children.

I'm not opposed to operating day nurseries in our schools, but until we have the bigger argument and sort out the jurisdictional problems, especially with regard to staffing, which so many of the public presentations advised us of, in the meantime—correct me if I'm wrong—my colleagues Mr Beer and Ms O'Neill are saying that you can't just do this willy-nilly across the province. Where there's a need, do it. Where there isn't a need, don't get out there advertising and trying to fill up empty spaces, because that's part of the reason these facilities aren't occupied at this point in time.

The second one, I think, is the reason for the amendment, that is, that we're not having a great deal of success in operating them even when there are students because it is difficult for parent boards to run day cares anyway. It's very difficult. I think there's a real temptation when they are in the school because there's a lot of expertise and support, but it takes time away from the administration of the regular school and, unless Mr Martin's going to announce this afternoon the dollars that are going to go with this project, we don't see an indication that it's going to get the financial support.

If you want this to work, you can't just take away from the administration of other school programs and ask somebody to take on yet more work. That has been the position of all political parties in any political campaign, but once we get elected—not me, because I haven't had the opportunity yet, but I will—and become part of the government, then we change our tune. If the government were responsible, I think it would be letting us know exactly what kind of resources are going to be attached to this.

In the meantime, I'm going to support this, not that I think I would approve of it, but I have a feeling that the government members—Mr Hope usually smiles at me when he's agreeing with me and is going to vote for me, and he's not smiling. Therefore, I feel he's probably not going to look at my amendment, so I'm going to try to make the legislation better by supporting the Liberal motion.

Mr Hope: I won't be supporting this amendment that's being put forward.

Mrs Cunningham: You're not even going to support this one.

Mr Hope: No. Listening to your comments about the conversations that have been taking place out in the broader public around child care, I had the extreme pleasure of travelling with people throughout this province around the child care issue. I'm one of those members who still have small children, so I can relate to that.

1630

Mrs Cunningham: You keep saying that. Are you making a suggestion? Because you're totally out of order. It's called harassment.

Mr Hope: No, no. I'm just making a friendly comment as we try to deal with the opportunities that are there and surviving in a lot of communities, because each community is different when dealing and coping with the issue of child care. In my own community, they contract the work in. The Y has been playing a major role in my community in providing child care in the school system. They do have parent boards, specific-site parent board advisories that are working on it.

But talking about this amendment, some of the elements brought inside of it belong in the Day Nurseries Act and making sure that it complies with all child care throughout the province, in that context. I see that what we're doing here is allowing the opportunity if a school board wishes: If it wishes to purchase a licence, it'll have that opportunity.

The other framework will follow in a different piece of legislation which talks about the whole child care system and which we will work at, because I know there were a number of specific concerns brought out in the travels through Ontario when we talked about child care. Under the previous minister and under this minister, we are looking at reforms around child care in the province of Ontario.

Mrs Cunningham: Just a short comment. I'm very pleased to see that Mr Hope is recognizing the need for a review of the Day Nurseries Act. After this meeting today, I will have the opportunity to speak to the minister and I will raise your concerns as well as my own in that regard as one of the items on the agenda.

Mr Hope: I do have the opportunity to talk to him directly.

Mr Beer: It's been an interesting discussion. I simply make the point that I think the issue here is that, in a sense, this is the cart before the horse. We do need to review the Day Nurseries Act and how we are going to be providing, more broadly, child care, and the role of school boards and of the Ministry of Education and Training. It is absolutely a legitimate public policy issue in terms of what that role ought to be, but the concern at this point is that without that broader framework yet being available and that public debate taking place, it just leads to a lot of uncertainty as to exactly what this amendment may or may not mean. That's why we've put in this particular amendment and would move the question.

The Vice-Chair: Shall the amendment carry? All in favour? Opposed? Amendment lost.

Mrs Cunningham: I was rather hopeful that my colleague's motion would be supported. As it wasn't, I'm certainly going to attempt to get ours in.

With regard to subsection 29(3) of the bill, I move that paragraph 49 of subsection 171(1) of the Education Act, as set out in subsection 29(3) of the bill, be struck out.

The intent, obviously, is that it removes the authorization for school boards to establish, operate and maintain child care centres. I've already stated that the issue of child care and/or early childhood education and/or junior kindergarten within school facilities and paid for by the education dollar have not been publicly discussed. My colleague Mr Beer made that statement as well. Both of us have been around in this Legislative Assembly where we have been promised public discussion on this issue, so I certainly believe this is premature.

It's not without some degree of sympathy I have for school boards that aren't able to have their child care centres operating where schools actually have the physical setting right now. I share Mr Hope's support for early childhood education; it's just that I'm not certain that in junior kindergarten programs we're meeting the objectives of families and of children for the kinds of experiences we want our young people to have in Ontario.

I think that the Durham Board of Education said it very well when it said:

"The issue of continuity of a young child's educational experiences and the integration of different systems and settings within which children can receive care cannot simply be solved with an addition to the Education Act that would allow boards of education to be the operator of licensed child care programs under the Day Nurseries Act.

"The interrelationship of the educational and child care systems and how a child's learning experiences in different settings can be integrated and enhanced requires stakeholder consultation," and they say it well.

I was absolutely shocked to see the government bring forth this amendment. This is an omnibus bill, referred to by the minister, when it was introduced, as "house-keeping." This is definitely not housekeeping. This is a brand-new responsibility for school boards. We're debating it now after school boards are—basically, the school year for parents and young people, when they have the time and could be interested, they're just simply not here.

These hearings were cut short. We were told how many days we can have. We have not had this opportunity. At the same time, we have a group of people going about the province with the responsibility for taking a look at issues in education in Ontario to the tune of—I'm not sure what the money was; Mr Martin, perhaps you could advise me.

Mr Martin: I believe it was \$3 million.

Mrs Cunningham: I think it's \$2.4 million, but it

might be more than that. Mr Hope, do you know?

The Vice-Chair: Mr Hope, do you care to respond at this time?

Mr Hope: No, I don't care to respond.

Mrs Cunningham: No, I guess not. It's so hard to say.

The Vice-Chair: Proceed, please.

Mr Hope: I'm not the PA. I'm only a member of this committee.

Mrs Cunningham: It's a waste of time and effort; three years to report on the status of education and the needs across the province of Ontario.

Anyway, this amendment authorizes school boards to establish, operate and maintain these child care centres and it's the first step towards implementing the government's plan to provide a seamless day for the care of children, and this is a backhanded way of doing it.

A document that has already been referred to by my colleagues—I think it was Ms O'Neill who talked about the document that was forwarded to cabinet by the Ministry of Community and Social Services—recommended the creation of an early childhood authority to coordinate child care services and education policies. The paper seeks cabinet approval for an analysis of base funding for school-based day child care centres that would combine schooling from 9 am to 3:30 pm and child care before and after. The cost of such a school-based program for children aged three to five was described as very substantial.

I understand this. This is exactly where many of us have spent many years, but this document would have been worthy of public discussion. Perhaps we would have then got some advice on where school boards are having very successful working relationships and program provision for families and young children and perhaps we could have picked up on some of those models and learned something, and all of this could have been done in the next six months, as opposed to waiting some two to three years for some commission on education to report after we have already funded five former commissions within the last six years.

The leaked cabinet submission envisions a non-profit child care system operated as a public service and recommended withdrawal of government operating grants for private child care operations. Certainly, none of us were surprised. As an immediate measure, the ministry recommended amending the Education Act to allow school boards to hold a licence to operate regulated non-profit child care centres, and that's what we're obviously facing right now, probably because the people who put the work into this document understood that we've been waiting for these revisions of the Day Nurseries Act and there doesn't seem to be any indication by the minister, although, again I'll tell you, I'm speaking to him about that this evening.

Following cabinet direction regarding system design and funding, the Ministry of Community and Social Services will return to cabinet in the fall of 1993 with detailed policy options and implications regarding enhancing access to the child care system, and then they'll determine the most appropriate time to introduce new child care legislation, from October 1993 to January 1995, to correspond with the next provincial election.

The big question remains, will they really have some kind of public discussion or take a look at the Day Nurseries Act, and eventually, who's going to pay for it?

1640

I think a variation of this scheme exists in Grey county. Most of us have been made aware of the Grey County Board of Education requesting that the minister allow the board to develop a plan in collaboration with local child welfare, health and social service agencies—which we talked about, actually, through the deliberations of this committee yesterday when we were looking at hard-to-serve children.

If we really believe in cooperation among ministries and if we believe in prevention programs for young people that eventually—we'll support Mr Hope's observations that if we don't do something with these young people, we're looking at dropouts down the road; I certainly agree with that. But the people from Grey county were saying, why not take a look at the cooperation of welfare, health and social service agencies with education for a variety of programs and services for pre-school children and their families as alternatives to the traditional junior kindergarten program?

First of all, they set up an agreement that will place kindergarten teachers in existing child care centres for the first part of the day. It's designed to reduce the cost of the adding junior kindergarten to the school system and to save jobs in local child care centres. The pilot will provide a model of service integration in collaboration in a rural setting. There are approximately 1,125 child care centres located in schools, serving 41,742 children and approximately one third of the licensed child care system.

I put these remarks on the record because we have had so many submissions, letters, phone calls and concerns from the education community, the health community and the social service community. I want to let them know that we share their concerns and that we are very much aware of the fact that it's long overdue that we take a look at the review of the Day Nurseries Act. This piecemeal approach to providing programs for young children is totally unacceptable, and it's even more unacceptable that the government thinks it so unimportant that it calls it "housekeeping" and introduces it as part of an omnibus bill.

Obviously, I feel very strongly that this section of the

bill ought to be removed. This is something we should deal with down the road, and we should at least wait and see what kind of public consultation comes from the commission that is looking at education in Ontario.

Mr Hope: I'd certainly like to participate in this one. This amendment being put forward by the Conservatives would just totally delete the opportunity to grant permission to the boards to operate a day nursery. It's not mandatory. The amendment that is inside this does not require any board to operate if it finds it doesn't need it.

I heard the member mention Bruce county. I was there and I listened to the concerns, and I believe those concerns will be reflected in a different way because each community is different. But the amendment we're talking about here today is not saying that school boards have to, will or must; it says the opportunity is there.

I find this amendment very important in terms of those individuals, whether single parents or parents re-entering the high school system to get their grade 12 or grade 10 or whatever grade they might have missed out on. I believe this is the most positive way you can look at maintaining a family-value aspect of it, and yet provide the ability for a person to proceed through an education process.

I compliment those boards that take the initiative in saying, "Let's start looking at our pupils who are participating in our school system, looking at the whole picture, the children who are involved."

I just listened to the lengthy speech given about Bruce county. Yes, Bruce has some unique ways it would like to address child care and those will be addressed through the Day Nurseries Act, but this amendment we're talking about today that is inside this omnibus bill is just a means; with those boards progressively moving to help people in their communities by providing education, it is just one more avenue of looking at the family as a whole and that opportunity to make sure.

I kind of wish more boards would participate in this. Imagine being a parent in a school system, going to school, and the availability of having child care right in that same school you're attending, especially when the children might be sick or something like that. It just allows closer communication.

But I know the good work of the Ministry of Community and Social Services staff. They are not going to start building more child care centres if there are adequate spaces provided in our system today. I believe they will be working on the child care network systems, the children's services system in our communities to make sure that everything is done appropriately and that we're not spending money just for the simple fact of spending money.

Mr Larry O'Connor (Durham-York): In taking a

look at this issue, I look at my own community in the area that I represent in York region. I know of two schools off the top of my head, without looking at it too hard. In Sutton, at the high school there, they have a child care centre that's operated and I believe they do have a parent board that's involved in it.

One of the unique things about having a child care centre in a high school is the fact that for a lot of people who, because of choices or lack of choices, in the past may have ended up leaving the school system and not finishing high school, this offers a unique opportunity. If we take a look at that one setting, we're now offering people choices to continue with their education. I think it's very important that we do so.

Looking at another school in Keswick, it's a new school that was built recently. I was at the opening about a year and a half ago. While they built the school, they decided that they were going to open up a child care centre within it. It's a terrific setting, because now not only do we have the opportunity for children to go to the child care centre within the school to make that transition from a child care centre into school easier, but it also helps for some of the people who have to commute. People commute great distances nowadays quite often to the workplace, and it's made it easier for the children to go down the hallway and into a part-time child care setting and to offer an option to parents that is both economical and doesn't place a lot of hardship on the family.

In taking a look at adding this to it, I think there may be schools—and I stand to be corrected—that have been built that had intended opening up child care centres and perhaps not had the opportunity or nobody has approached them about utilizing that. It will allow them the opportunity to actually move in there and do this. I believe it gives the board that opportunity to do that.

I think it is actually a matter of opening up the process a little bit better. If I take a look at those two settings within my riding that come to my mind quickly, I think it offers a real opportunity. That's something that is going to make it much better not only for a student to continue high school, but also for parents to be more comfortable in knowing their child in grade school is going to be cared for after school in a formal setting.

Mr Beer: I know well the Sutton centre that was set up. I think, as the member recalls, that was one of the innovative ones that began when we were the government. What was particularly interesting about it is the need that it responded to: very much to help young women who are attending high school so that they could bring their kids and with the whole basic understanding that if they stayed in school, they might continue in school and that if they—

Mr O'Connor: They give them credit for it as well.

Mr Beer: That's right, they receive credit.

I think the issue is not around the provision of child care. We've wrestled with the amendment that my colleague from London North put forward in our own caucus discussion, which was why ours was different. What we were trying to do was, in our view, to limit and focus the intent. I can't underline enough, I think, the point that the member for London North makes about the uncertainty out there in terms of just where the whole system is going in the sense that this, if you like, should be a step that comes after we've had the broader discussion. At the same time we recognized that in some circumstances—and I've talked with some boards that feel they need to have an option available to them.

1650

I think what's hard here is to separate out the intent of this, as has been expressed by staff who are working with this, and what has been said by the government and trying to ensure that it doesn't become something else. The sense we have is that it is within the section that is the "may" section and not the "shall" section of the Education Act, so it is not directing school boards to do this.

We have come to the conclusion that, in the absence of our amendment, we would accept this article in the act but would want to underline very, very clearly to the government that this must not be seen to be nor be allowed to be the way in which the Ministry of Education and school boards take over the operation of child care, that there really does have to be a very extensive debate in this province, quite frankly that would include the federal level as well, in terms of how we see the provision of child care services, where we see them and who will be directing those.

I think my belief, from my own time as Minister of Community and Social Services, is in the need to ensure that parents are directly involved, and I accept that just because a school board may be operating it doesn't mean that they needn't be the example of why it has been put forward as well. But we have had, and perhaps it's the way it happens in opposition, those who are most concerned about different elements of legislation come and say: "Look, we're really worried. What does this mean? Where is this going to go?" It's in that context that the draft cabinet document that leaked has just raised a lot of concerns and fears.

So I say it is with a great deal of thought that we've looked at this in terms of whether we would like to see it. I guess our answer is that we will support that, even though our amendment was defeated, but would underline very clearly that the government must move with great care and that I think we need a very full public debate.

I think whenever the government does bring forward its policies, both in terms of legislation and in terms of

regulations, that should go out to committee for very broad discussion, because we do not have a consensus in this province around the role of the Ministry of Education, or indeed the role of any other public body, as we try to provide greater access for child care.

I guess, as a good Liberal, I'm agreeing with a great deal of what my colleague from London North has said, but I'm also agreeing with a good deal of what my friend and colleague from Chatham-Kent has said, and in the absence of our amendment, we would at this juncture still, I guess, take a certain leap of faith and support the clause that is in the draft act.

Mr Hope: Trust me, Charles.

Mrs Cunningham: The last person who said, "Trust me," lost. Remember that.

Mr Hope: Don't worry, Dianne. Trust me, Charles.

Mrs Cunningham: I would like to be able to do the same thing, but I simply cannot. I just believe that in communities where there are facilities that are empty right now, if there was a real need, parent groups would get themselves organized and would operate these child care centres. I'm not prepared to send the message out that school boards are going to be responsible or have the responsibility to "establish, operate and maintain day nurseries within the meaning of the Day Nurseries Act, subject to that act."

I don't see any of the regulations. I think we had a good go at asking questions earlier on this topic, and I just think that operating a day nursery is a very big responsibility. It takes a lot of careful administration, the selection of the young students and the communication that's so necessary with parents of preschool children, all of the other jurisdictions that are also impacted. I'm now talking about the regulations with regard to health and education and what not.

It's a tremendous responsibility, and I just think that these schools right now have not got the promise of this government or the commitment of this government to forward to them the administrative costs, and I think that we will have different kinds of preschool programs from one board to another and that this will begin a trend. Why would a parent group that's operating under the Day Nurseries Act now put the kinds of resources into that when they can see a school board down the road or a school down the road getting the kind of administrative support from school boards without the clear understanding as to jurisdiction?

So although I certainly agree—and I'm always having to convince the member for Chatham-Kent of the importance of child care in Ontario and the opportunity for it. As Mr O'Connor stated, the two schools that he described I know well, and certainly I think we're very much in the forefront in London with our schools, our preschool programs, at our secondary level. At that point in time, I actually worked with the Ministry of

Community and Social Services in getting those established, so it isn't that I don't support them. I think there ought to be more of them, but I think the jurisdiction and the finance has to be extremely clear.

The criticism on our education systems right now is that they're cutting programs to do with their own responsibilities as we see them, and need I talk in this committee more about the programs that have been cut with regard to resources for special-education students? At the same time we've had tremendous discussion here with regard to the hard-to-serve children. Our great concern with those boards has been that they don't have the programs or the resources to support many of these children and we have to send them elsewhere, and many times out of their community.

At the same time as we're hearing that, one day before the committee, we're now passing responsibilities for the administration of the operation and the establishment and the maintenance of day nurseries in our schools. I just don't think that the two—

Interjection.

Mrs Cunningham: Yes, it is a choice, but I have to tell you, every time some school board takes that choice, something else is missing. Unfortunately, I think it's a choice that is meant to be just an interim choice because of the fact that we should be looking at the Day Nurseries Act and the whole issue of early childhood education.

The choice that we ought really to be making is a choice of whether this province chooses to provide, in its schools or elsewhere, early childhood education programs that begin when parents have to leave for their place of work that incorporate an education component and end when parents return from work.

We really ought to be supporting programs for parents, whether they work in the daytime or in the nighttime. That's why I always refer to it as child care, day and night. Until we really bite that bullet and take a look at how we can do it well, there will never be equity of access to programs in this province.

I can say right now that this is a piecemeal approach, and it's another reason—actually, this has been a tremendous lobby—to put off the real issue, and that's to take a look at early childhood education programs in the province of Ontario and how we meet the needs of young children and their families. We're not doing it by passing this particular amendment to the bill. That's why I want it removed and discussed elsewhere, even within the forum on education. That is the responsibility of this government in the next few weeks and months.

Mr Gary Malkowski (York East): I think it's important for us to understand that this recognizes, more importantly, an opportunity as an option, I think, for availability that parents and boards requested. This amendment then permits school boards, I believe—and

I think this is proactive and it's part of the process that is healthy, so therefore I would call the question.

The Vice-Chair: Those in favour of the amendment to subsection 29(3)? Opposed? Amendment lost.

As there are no further amendments to section 29, shall section 29 carry? Carried.

Section 30: There is an amendment proposed.

Mrs Cunningham: Mr Chairman, I think I will make my point by voting against section 30 of the bill.

The Vice-Chair: Thank you. Those in favour of section 30? Opposed? Section 30 is carried.

1700

Mrs Cunningham: Mr Chairman, could I have your indulgence and the committee's indulgence on section 30? I would like at least to put on the record the reasons I wanted to vote against it. I thought the motion was technically out of order, but I still think I can put my comments on the record, if that's fair.

The Vice-Chair: Proceed.

Mrs Cunningham: The intent, I think, of this section maintains the "intervening employment" sections of the act. Intervening employment will no longer prevent the transfer of an employee's sick leave credits from one school board to another. The current provisions do not affect teachers who return to the employ of the same school board.

I actually had planned on spending some time on this one, because I think—correct me if I'm wrong; I'm looking at my colleagues for their support on this—this is one of the more controversial sections where we did hear from the school boards. If you don't mind, Mr Chair, I'd appreciate putting my comments forward here.

I am now raising the concerns of the Ontario Public School Boards' Association in this regard. The intervening employment sections are often referred to as sick leave credits. They state it's their understanding that the bill proposes that intervening employment will no longer prevent the transfer of an employee's sick leave credits from one school board to another. I would like the government to respond as to what the intent of this section really is.

The Vice-Chair: Mr Martin, do you wish to respond?

Mr Martin: Yes, I believe the counsel to the ministry on this bill has something prepared.

Mrs Cunningham: Yes, I'd like to hear it.

Ms Lindhout: The provisions in the Education Act that are being repealed are anomalous to the way sick leave credits are dealt with under other circumstances. Currently, if the teacher quits working for board A and goes to work for board B directly, he or she is able to carry over the sick leave credits earned with board A. If the teacher quits working for board A, doesn't work for

some time—any length of time—and then goes to work for board B, he or she is able to carry over the sick leave credits earned with board A. If the teacher quits working for board A and goes into some other line of work not with the school board and then, after some time, goes back to work for board A, he or she is able to carry the credits earned in the earlier period of employment with board A.

However, if the teacher quits working for board A, takes a job not with the school board and then later goes to work for board B, he or she, and it is more often she, cannot carry over the sick leave credits earned with board A.

This was brought to the ministry's attention as an equity issue. It affects women more often than men. If a teacher's spouse moves for one reason or another and the teacher is required to resign from one board in order to move with her spouse to another location, she'll be all right if a teaching job with a board is available immediately in the new location or if she can afford to be unemployed until such a job opens up. However, if the family needs her income and she has to take another job, even a teaching job in a private school, until a teaching position with the board opens up, she's out of luck under the current legislative provision and loses her sick leave credits.

Therefore, it was brought to our attention as being unintentionally discriminatory against women and especially against women who could not afford to be unemployed while waiting for a teaching position with a board to become available. It can cause real hardship to teachers who, early in their work for the next board, have a serious health problem.

Mrs Cunningham: Equity issues are issues that, in my view, sometimes have some fallouts that, in my opinion, are overlooked in support of equity itself. I think this one can work in both regards. The province, in this instance, is passing legislation that will increase costs for school boards. Obviously, the school board has the option of hiring or not hiring somebody who wants to move forward with the transfer of their sick leave credits. The same, I think, would apply to a custodian. I think I'm correct in this regard. Is this just for teachers?

Ms Lindhout: Yes.

Mrs Cunningham: Are you saying custodians can't transfer or can transfer now?

Ms Lindhout: That depends entirely on the collective agreements that the boards have, whether they recognize any kind of sick leave arrangements that are bargained under other types of collective bargaining.

Mrs Cunningham: That's correct.

Ms Lindhout: But this only applies to teachers.

Mrs Cunningham: That's right. Depending on collective agreements, are we now setting a precedent

for all employee groups, that these sick leave credits can be carried from board to board, or municipal councillors or any other way? This is in my view a tremendous step for the government to take.

Ms Lindhout: It's very similar to the other carryover provisions that are already there and that's why it's considered discriminatory. If there were no possibility of any teacher carrying over sick leave under any other conditions, then this particular situation would not be considered discriminatory and the government probably wouldn't be looking to amend it.

Mrs Cunningham: I think I've heard certainly the government's rationale for change. I guess my question would be, will it improve the quality of education? Will it really be more equitable? Will it be retroactive for employees currently on staff who were not able to transfer credits in the past? That's a legitimate question. Could I have the answer to that?

Ms Lindhout: Again, that will depend on their collective agreements.

Mrs Cunningham: In what regard?

Ms Lindhout: The sick leave credits would only take effect with the passage of the bill.

Mrs Cunningham: Okay, so it isn't retroactive.

Ms Lindhout: No, it's not retroactive.

Mrs Cunningham: All right, fine. I think the legislation may in fact dissuade hiring experienced teachers with accumulated sick leave.

Mr O'Connor: The women teachers' federation supported it.

Mrs Cunningham: The women teachers' federation supported it. They supported child care. They supported other things. I'm just saying that I think it probably is in the best interests. I would expect that the Ontario Secondary School Teachers' Federation would have supported it too.

What I'm looking at is the role of school boards and their management responsibilities here. When you work for one board, you accept the benefits that go with that board, and if there are, in my view, fewer benefits with one board over another, that's part of your decision-making. Certainly, if you came to the London board, you got the benefits at the time. If we changed your benefits—we often red-circled people and knew people coming on may have had different benefits or conditions of employment. That's your contract and that's what you live with. I don't think we could ever be entirely equal or that equity can be there for everyone.

I don't find it equitable that people can be dissuaded from getting jobs because they bring with them this kind of baggage, quite frankly. That's up to the local school board. But I'm not buying the equity argument 100%. A teacher or custodian with 200 accumulated sick days will carry a liability with them that a board

may not want to assume. They may want to hire the new teacher first. They do it now. You can never be 100% equitable. In fact, some of the arguments that universities, colleges, school boards and other institutions use when people are retiring is that you can get people with less experience and therefore it would be less costly.

When I represented the public on a school board, I always said you got the best person for the job. I think this is just one more reason for people who think that the cheapest person is the best person or the cheapest person is the only person they can afford. I think that attitude exists far more than mine did with the kind of pressures for the dollars and cents bottom line that school boards especially are looking at right now. I think it's very difficult for mature people with experience to be hired, even if they are the best person for the job, given today's economy and the environment. I think this is making it even more difficult and I'm surprised at the government bringing this forward as an equity issue.

I have to say that the legislation does create a hiring bias. Age does go hand and hand with the liability and it's one short step removed from age discrimination. I'm putting those remarks on record. They're my own personal thoughts.

I mentioned before that the Ontario Public School Boards' Association does not support the removal of "intervening employment" from subsections 158(2), (4) and (6) from the Education Act. The revision would automatically increase school board liability under section 158(1) where a retirement gratuity exists. I will underline my personal reasons.

I think some of the best teachers, because of age and because of the benefits that they take with them now, meaning they cost more money, are being discriminated against. This adds to that predicament and it is not in the best interests of quality education in the province of Ontario.

Thank you very much for allowing me to put those remarks on the record.

1710

Mr Beer: I realize we've, I suppose, dealt with this and it's out of order, but it's perhaps useful to get some questions. I was troubled by this amendment as well. Having missed a bit of the beginning of Mrs Cunningham's presentation, this may have been answered, but not having been on a school board, I may not understand just how it works. Just help me here.

If I've taught for 10 years at a school board, I then leave and go to work in a municipality for a couple of years and I then come back to another school board, now the intent, as I understand it, is that these pension entitlements can be transferred.

This may be incredibly naïve and simplistic. Would

the first school board not still be responsible for the pension entitlement that I had, or not? Why wouldn't one simply have a system whereby those were passed on, because even if I had just worked for 15 or 20 years within one board, is this saying then that as to the responsibility for those entitlements, even if I've only worked for one year for another board, that board has to pay all of those?

I'm just not entirely clear on what is happening or what is being placed on, I guess, the final board.

Ms Lindhout: I can address that. This has nothing to do with pension entitlements. It's sick leave credits that are totally separate from teachers' pensions. At the beginning of every school year, teachers are entitled to 20 days of sick leave. If they don't use them on any given day, they can accumulate them.

Many boards have bargained into their collective agreement what they call "retirement gratuity provisions." Originally, the intention was to reward those teachers who were not sick, who had very good attendance records, and they in their collective agreements agreed that at the end of a certain period of employment or when they retired, they would be entitled to a gratuity that would be based on the accumulated sick leave credits they still held.

Not all retirement gratuities are based on sick leave credits. Some are simply based on years of service, but in many cases they are based on sick leave credits and they can only be for a maximum of half a year's salary at the end, and then that would require, say, five years of perfect attendance to accumulate that many sick leave credits.

Mr Beer: I'm sorry I said "pension"; I meant sick leave.

Mrs O'Neill: I guess what we're asking is, is the total liability resting with the receiving board at the end of the—

Ms Lindhout: Except in the case of teachers who were transferred under Bill 30 agreements, the liability is with the subsequent board. But for those who were transferred under Bill 30 agreements, there is usually some kind of arrangement between the public board and the Catholic board that the public board would be responsible for the retirement gratuity or sick leave up until the time of transfer.

In other cases, when teachers leave the employment of one board, it totally clears the record with that board and starts with the next board. Now, if they move directly, the teachers can carry the sick leave credits. If there was intervening employment by going to a second board, the teachers would lose it.

Mr Beer: I thank Mrs O'Neill. At this late hour in the discussion of the bill my mind has been somewhat foggy. I think now I see what it was that I was trying to get at. I guess it's just simply, why is that? Is it just

legally not possible if you have an interrupted service or you've gone to work somewhere else, that this can't be transferred? It just seems that if you've been at board A and you've accumulated certain credits, why would it not continue to be responsible for those? Would they not have funded those in some way? It does seem to be a greater burden then on board B that you may only have been with it for a couple of years and yet that board would have the whole responsibility.

Ms Lindhout: It would depend entirely on what kind of arrangements they have around retirement gratuities. They're all different and in most cases boards now do have retirement gratuity provisions, but often they're grandfathered at different rates. Teachers who were employed before a certain time are eligible for the full amount. Teachers employed after a certain time might be eligible for a prorated type of retirement gratuity. I checked just this morning with the Education Relations Commission and it's quite a variety.

Mr Beer: I simply say that the more one goes into the mystery sometimes of educational finance, the more mysterious it becomes. On that, I rest my case.

The Vice-Chair: May I agree with that statement. Ms Cunningham, a short comment.

Mrs Cunningham: I just feel it's a whole can of worms that hasn't been carefully thought out. It's not anything that's going to be easy for anybody to implement, and although the government's presenting it to us as an equity issue, I consider it equally discriminatory, depending on the way you look at it, and that's why I brought forward the amendment.

Ms Jenny Carter (Peterborough): As somebody who had a fairly patchwork career and moves around quite a bit, I'd just like to say that if we're going to have this system at all where people can accumulate and transfer credits, then I think we should have it that intervening employment does not make it fall.

I must say that I found some of the arguments from the member for London North rather strange. Logically, if the fact that older teachers cost more than younger ones is such a disincentive to employ them, we should be saying, "Why do we have increments as people get older anyhow?"

Mrs Cunningham: Why what?

Ms Carter: Why do people earn more as they get older anyhow?

Mrs Cunningham: That's a good question.

Ms Carter: Where do we stop with this?

Mrs Cunningham: Some should be earning less, I think. Don't you agree with me?

The Vice-Chair: Ms Carter, please.

Ms Carter: To say that you can't change something which is inequitable because that's not fair to people who suffered that inequity in the past is also a rather

strange argument, because I don't know how we'd progress at all on any front if that was the way we argued on these issues. So I certainly do not accept this amendment.

Mrs O'Neill: I just wanted to clarify one thing: Who is going to keep these data? Where is it officially going to be stored? Will it be with the federations or will it be with the ministry?

Ms Lindhout: It usually becomes a part of the teachers' employment records that they bring with them. Those are the questions that are filled in, and the board that they leave will give them a statement as to how many sick leave credits they have accumulated. If that particular board has some kind of payout arrangement that does not depend on retirement to superannuation—for example, if they say that for any credits accumulated with that particular board, they'll pay them some money—then that will cancel any sick leave credits that the teachers would bring with them. So the statement that they would get from the board in that case would be zero sick leave days.

Mrs O'Neill: I would suggest that document should be guarded with your life.

Ms Lindhout: It usually is.

The Vice-Chair: Completed? Thank you.

As members of the committee may recall, section 30 was carried without amendment.

Shall sections 31 to 39 carry? Carried.

Shall the title of the bill carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House, as amended? Agreed.

That completes the business relating to Bill 4. Is there any other business before the committee at this time?

Mr Malkowski: Just for the record, I was wondering if I could share a few comments. I just want to thank the representatives from the Learning Disabilities Association of Ontario and also the association for attention-deficit disorders, for their organizations coming to meet with me and also their presentations. I thought they were very good in their comments and I think they've done a very good job in representing their people. That's been very helpful—their comments—and

very productive on the bill, and we recognize their hard work. I just wanted to thank them for that, and also thanks to all the members here for cooperation and the spirit of cooperation in making sure that this bill would happen.

Mrs Cunningham: I accept with pleasure.

The Vice-Chair: Anything further before the committee at this time? Does the subcommittee wish to meet regarding business for next Monday? Is the committee meeting at that time? As long as the House is sitting, the committee can meet. Does the subcommittee wish to meet?

Mrs O'Neill: What would be on our agenda?

Mrs Cunningham: Maybe they'll refer the social contract to this committee.

Interjection: Wouldn't that be fun.

Mrs O'Neill: Save me. I had the Constitution last summer.

Mrs Cunningham: We could have open public consultation in that regard.

The Vice-Chair: Thank you, Mrs Cunningham. There are bills that stand referred, I'm informed: Bill 18, An Act to permit Patients receiving Chronic Care to install their own Television or combined Television and Video-Cassette Recorder; Bill 24, An Act to amend the Education Act; Bill 94—

Mr Beer: Mr Chair, I wonder if I might make a suggestion.

The Vice-Chair: Certainly. We welcome your suggestion.

Mr Beer: Given the uncertainty of the session, perhaps the best thing would be if the subcommittee met on Monday next, when life might be a little clearer.

The Vice-Chair: The subcommittee.

Mr Beer: Yes, just the subcommittee.

The Vice-Chair: So the committee itself would not meet, just the subcommittee.

It's been suggested that the subcommittee meet next Monday, providing the House is sitting. Agreed with that suggestion? It's agreed.

Anything further? If not, the meeting stands adjourned.

The committee adjourned at 1723.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Harrington, Margaret H. (Niagara Falls ND) for Mr O'Connor
Malkowski, Gary (York East/-Est ND) for Mr Owens

Also taking part / Autres participants et participantes:

Baynham, Patricia, acting manager, legislation, child care branch, Ministry of Community and Social Services
Ministry of Education and Training:
Dickinson, Patricia, senior policy analyst, community education and outreach branch
Goldberg, Deborah, legal counsel
Lindhout, Julie, director, legislation branch
Martin, Tony, parliamentary assistant to the Minister
Riley, Michael, legal counsel

Clerk pro tem / Greffière par intérim: Pajeska, Donna

Staff / Personnel: Beecroft, Doug, legislative counsel

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Official Report of Debates (Hansard)

Monday 23 August 1993

Journal des débats (Hansard)

Lundi 23 août 1993

Standing committee on
social development

Comité permanent des
affaires sociales



County of Simcoe Act, 1993

Loi de 1993 sur le comté de Simcoe

Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 23 August 1993

The committee met at 1300 in the County of Simcoe Administration Centre Council Chamber, Midhurst.

COUNTY OF SIMCOE ACT, 1993

LOI DE 1993 SUR LE COMTÉ DE SIMCOE

Consideration of Bill 51, An Act respecting the Restructuring of the County of Simcoe / Loi concernant la restructuration du comté de Simcoe.

The Chair (Mr Charles Beer): Good afternoon, ladies and gentlemen, and welcome to the beginning of our hearings regarding Bill 51, An Act respecting the restructuring of the County of Simcoe.

Before I ask the parliamentary assistant to begin our proceedings this afternoon, I will need the report of the subcommittee on committee business to be accepted. I think all of you have a copy before you.

Mr Ron Eddy (Brant-Haldimand): I move the report be adopted and approved.

The Chair: All approved? Objection? Carried.

I understand there is coffee in Drury Room A, which is downstairs. Coffee is not permitted in the council chamber, but those of you who need a caffeine fix, feel free to go down and have one as the afternoon goes on.

I think, then, we have a full schedule this afternoon. I would ask the parliamentary assistant to the Minister of Municipal Affairs, Pat Hayes, if he would start our deliberations.

Mr Pat Hayes (Essex-Kent): Thank you, Mr Chair. I am pleased to be here at your request to participate in the hearings on the County of Simcoe Act—not the Chair's request, the county's request.

The county has been pressing for speedy passage of the legislation, which would put its restructuring recommendations into effect. Simcoe county council directed the study and endorsed the recommendations. The county has also negotiated solutions to a number of outstanding issues. Recently, the county endorsed the boundary adjustment between Tiny township and the town of Midland.

This legislation provides for considerable consolidation and streamlining of local government in Simcoe county. More importantly, it gives the county a policy-setting and strategic role in protecting agriculture and environmentally sensitive areas.

The county will also have a coordinating role in economic development. With the province's financial assistance, they are well on the way to adopting a strategic plan. The county and the province are working together to make sure the residents of Simcoe county will have a say in their county's future.

The local municipalities were consulted on the draft bill and their comments were incorporated. As a result, there are only a few housekeeping amendments to the second reading bill which are being proposed at the request of the local municipalities concerned. These have also been endorsed by the county. The boundary adjustment between Tiny township and the town of Midland is one of the amendments.

Simcoe county has proven to be a model of self-determination. We commend county council for its commitment.

We are here today to listen to you and your recommendations. Also, I'd like to take this opportunity to thank the local members who were quite responsible for getting the second reading of this bill into the Legislature: Al McLean, Jim Wilson, Paul Wessinger and Dan Waters. They've done a lot of hard work. It just shows that committee can work and also it's good to see both sides of the floor working together for something like this.

At this time, if I may, Mr Chair, I'll turn it over for the rest of the presentation on behalf of the government to Jeremy Griggs, who is a fact-finding officer for the Ministry of Municipal Affairs.

Mr Jeremy Griggs: Ladies and gentlemen, members of the standing committee on social development, my name is Jeremy Griggs. I am a fact-finding officer with the Ministry of Municipal Affairs. I'm here today to talk to you about Bill 51 and the municipal restructuring of Simcoe county that it implements. I will begin my presentation with a brief description of the county, including recent growth trends. I will also describe the process followed in the Simcoe restructuring, summarize the recommendations submitted by county council and outline the impacts of the restructuring.

Simcoe county consists of 28 member municipalities and geographically encloses the cities of Barrie and Orillia. Both cities do not contribute to the county levy and are separated from the county for administrative purposes. Although they are separated, the cities share a number of services with the county and its constituent municipalities, including social services, the suburban roads commissions, the Huronia Tourist Board and the Simcoe County District Health Unit.

The current county structure of local government in Simcoe was created under the Baldwin act in 1849. This structure remained virtually unchanged for over 140 years, until the southern portion of the county was restructured in 1991.

Simcoe is located directly north of the greater

Toronto area and is significantly impacted by development patterns in the GTA. In recent years, Simcoe county, including Barrie and Orillia, has experienced greater population growth than any other county in Ontario. From 1971 to 1986, Simcoe's population grew by 2.61% per annum. During the same period, the populations of Canada and Ontario increased by only 1.15% and 1.21% per annum respectively.

Much of the recent growth in Simcoe has been focused in the larger urban areas. From 1988 to 1991, Barrie's population increased by 7.4% per annum, while Simcoe county as a whole, excluding Barrie and Orillia, grew by only 4.43% per annum. Among the county municipalities, Innisfil, located directly south of Barrie, experienced the most rapid growth from 1988 to 1991, at 10.87% per annum.

Because of its proximity to the GTA, Simcoe is projected to be the second-fastest-growing county in Ontario over the next 20 years. A provincial report entitled *Perspectives* projects growth of 1.44% per annum from 1986 to 2011 in Simcoe and the rest of the GTA periphery. The report concludes that "much of this growth will be concentrated in the commuter shed extending in a band between 60 and 100 kilometres from downtown Toronto, and includes Guelph and Barrie."

I'm now going to review the Simcoe county study process followed in generating the restructuring recommendations.

In 1988, prior to the initiation of the province's county study and restructuring program, Simcoe county and eight municipalities in southeast Simcoe were asked to participate on a steering committee to assist the Ministry of Municipal Affairs in determining the form of government best suited to meet the servicing needs and manage the rapid growth in this area. The south Simcoe study was initiated in response to a proliferation of municipal boundary adjustment applications in the area.

To address the issues in south Simcoe, the study committee recommended reducing the number of local municipalities in the area from eight to three through a number of amalgamations. These amalgamations were implemented through the County of Simcoe Act, 1990, on January 1, 1991. The restructuring in south Simcoe was a major factor in Simcoe county council's decision to undertake a county study.

In the late 1980s, two provincial studies, the Haggerty and Tatham reports, made recommendations for reforms to Ontario's system of county government. These studies identified a number of concerns, including inequities in representation, the proliferation of inter-municipal boundary disputes and joint servicing agreements and the inability of many small municipalities to effectively manage growth and meet their residents' demands for increasingly complex and expensive

municipal services.

These reports led to the release of *Toward an Ideal County*, a provincial policy paper supported by the Association of Municipalities of Ontario. *Toward an Ideal County* outlined guiding principles for county government reform, including a clear division of responsibilities between the county and its constituent municipalities; equitable representation; effective local decision-making ability; the maintenance and encouragement of cooperation between counties and separated municipalities; enhanced local accountability and accessibility; municipal viability and self-reliance; and the enclosure of service areas and communities of interest within individual municipalities.

The county reform program established in *Toward an Ideal County* enabled counties to apply for individual studies to be conducted by committees of county council. Research, report-writing and analysis support would be provided by the Ministry of Municipal Affairs.

In June 1989, Simcoe county council initiated a study to consider reorganization of the county structure. In late 1989, Simcoe county council elected a study committee from among its members. The separated cities of Barrie and Orillia agreed to participate and provincial staff were assigned by the Minister of Municipal Affairs to assist in the study.

The purpose of the study was to carry out a comprehensive review of municipal structure, representation, functions and services in the county of Simcoe. The study was also to review the relationship between the county and the separated cities of Barrie and Orillia. The ultimate goal was to ensure that the county had strong municipalities, capable of managing the growing number of issues facing local government, both now and in the future.

The issues to be addressed during the study included increased pressures for development with resulting environmental, financial and social implications; the need for county-wide policies to address issues transcending local municipal boundaries; the need to provide efficient, economical and effective service delivery by eliminating inequities and duplication of services; and the need to remedy inequitable representation.

As mentioned earlier, the recent restructuring exercise in south Simcoe was a contributing factor in county council's decision to undertake a county study. Many of the issues identified in the south Simcoe study, such as concerns regarding fringe development beyond the boundaries of urban municipalities, were identified in other areas of the county. Given the recent nature of the south Simcoe reorganization, the county study committee did not review the municipal boundaries in this area.

When the Simcoe county study began, the study committee had full participation of representatives from

the separated cities of Barrie and Orillia. However, in late 1990, it became apparent that there were significant differences in the philosophy and approaches taken by the city and county members. The city representatives favoured more extensive restructuring than was acceptable to the county members. In addition, the county representatives were concerned that the cities were presenting county restructuring proposals without making a commitment to rejoining the county. As a result, county council excused the city representatives from further participation in the study.

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Throughout the county study, efforts were made by the committee to ensure an open, consultative process. All four rounds of municipal consultation meetings were open to the public and there were numerous opportunities for the submission of written comments. Public consultation meetings were held in April and October 1990 and June 1991. The study committee also released two public discussion documents in addition to its final report.

On July 23, 1991, county council completed its review of the study committee's final report and formulated a response to the Minister of Municipal Affairs. Most of the committee's 126 recommendations were approved by county council, with the exception of several proposals, including county planning and the reintegration of the separated cities. County council voted 42 to 26 in favour of adopting the final report as amended.

The Minister of Municipal Affairs accepted county council's recommendations in principle in January 1992. The minister also stated that while the county's recommendations address most of the principles established for strengthening local government, several outstanding issues remained to be resolved.

The minister suggested that the county and the separated cities work together to reach an acceptable compromise to address their mutual concerns and interests. The minister also suggested that the county reconsider establishing a county planning department to develop policies to address county-wide issues. Finally, the minister suggested that the county finalize the details of the implementation plan for the proposed restructuring, including mechanisms to address concerns expressed in public and municipal submissions.

The minister established the joint consultation committee to address these outstanding issues. Because the joint consultation committee did not include representatives from Barrie and Orillia, the minister established a separate committee to address the unresolved issues specific to the separated cities.

The joint consultation committee presented its recommendations to Simcoe county council in March 1992. County council endorsed all of the committee's recommendations, including the development of the first

county official plan and the establishment of joint planning between the cities and their neighbouring municipalities.

In April 1992, the cities' consultation committee requested that the minister extend the discussions regarding the outstanding cities' concerns. The minister responded, stating that the cities' concerns regarding extensive fringe development and the lack of coordinated planning in the fringe areas will be addressed through county council's recommendations regarding county planning and joint planning between the cities and their neighbours.

The minister also indicated that the remaining cities' issues, namely, reintegration with the county and boundary adjustments to provide additional land for long-term future growth, should be resolved following the implementation of county council's restructuring recommendations.

Of the 126 recommendations contained in the study committee's final report, 95 were approved unchanged, 11 were amended and 20 were rejected outright by county council. County council approved all of the recommendations of the joint consultation committee.

County council's recommendations address a range of servicing, representation and boundary issues.

Most notably, county council recommended a series of amalgamations that will reduce the number of local municipalities in Simcoe from 28 to 16. It should be noted that the proposed amalgamations also include a number of annexations to provide additional land for urban growth and to enclose existing communities and environmentally sensitive areas within individual municipalities.

Simcoe county council did not recommend significant changes to functions and services on the premise that the enlarged municipalities, with access to greater financial resources, will provide for service delivery improvements. However, county council did recommend that the county assume a policy-setting role in strategic, land use and emergency planning.

County council made a number of recommendations regarding the relationship between the county and the separated cities of Barrie and Orillia. As part of the restructuring, county council recommended that the county official plan include policies regarding fringe development around the cities. The county also recommended that the cities establish joint planning mechanisms with their neighbouring municipalities.

The existing municipal boundaries in Simcoe county do not reflect existing communities and developed areas. In a number of cases, small hamlets are divided among as many as four different municipalities. This makes it very difficult to coordinate planning and services in these areas. In addition, residents may become confused as to which services are provided by

a specific municipality. The new municipalities proposed by county council enclose existing communities. As such, the restructuring will provide for improved local accountability and consistent municipal servicing.

Under the county's recommendations, each of the new municipalities in Simcoe will include an existing urban area. This will allow the municipalities to effectively plan for future growth, focusing development within or adjacent to existing built-up areas. This will maximize the use and efficiency of existing infrastructure and allow for compact development on urban services such as sewage treatment and piped water. The result will be better protection for the county's agricultural lands, environmentally sensitive areas and natural resources.

The enlargement of Simcoe's urban municipalities will provide the additional land required to effectively manage future growth. These expansions will also enclose existing fringe development, reducing the need for future municipal boundary adjustments and eliminating a number of existing joint servicing arrangements.

Generally, the county's servicing recommendations reflect a clear division of responsibilities and will facilitate the strategic management of long-term growth and area-wide issues. Where services are to be provided by the county and the local municipalities, it is proposed that the county play a coordinating policy-setting role with the local municipalities actually delivering the services.

A number of municipalities in Simcoe that provide municipal sewer and water services lack the excess capacity required to accommodate future urban growth. In addition, many of these municipalities do not have the financial resources needed to build new systems or expand existing sewer and water facilities. With the implementation of the county's proposed amalgamations, the new expanded municipalities will have access to enlarged assessment bases providing the resources required to expand and upgrade existing municipal infrastructure. Access to a larger tax base will also improve the municipalities' ability to manage future growth and accommodate any resulting demands for new services.

The county's recommendations will also improve representation by population at county council. Under restructuring, Simcoe county council will be reduced from its current membership of 37 to 32. To provide for representation by population, county council recommended that the existing multiple voting system of one vote per 2,000 electors at county council continue, but that the five-vote-per-municipality maximum be removed. This system will provide for much fairer representation at county council.

Because the restructuring provides each of the new municipalities with an established urban area to accommodate future growth, many of the proposed amalga-

mations involve the combination of rural and urban municipalities. Because urban municipalities often offer a broader range of services than rural municipalities, amalgamations involving urban and rural areas tend to result in rural tax increases and urban tax decreases. In many instances, this is because the rural ratepayers have been benefiting from recreational and other soft services offered by neighbouring urban municipalities at no cost. In these cases, the urban ratepayers have, in effect, been paying for the use of these services by rural ratepayers. Under the new municipal structure, the costs of providing these services will be shared equally by all of the ratepayers of the new municipality.

In addition, county council passed several recommendations to help minimize local tax increases resulting from the restructuring. The county recommended that the new municipalities adopt user rates to be charged to residents of defined urban service areas. The establishment of urban service areas provides for a user-pay system, ensuring that residents do not pay for services that they do not receive. County council also recommended that local property tax increases of 20% or more be phased in over a five-year period and that municipalities losing 10% or more of their commercial and business assessment be compensated for the resulting loss in revenue.

The province has committed to providing transitional funding to the county and its member municipalities to assist in the implementation of the proposed restructuring. The new municipalities in Simcoe will receive approximately \$2.6 million in transitional assistance. In addition to the transitional funding for the new municipalities, the province will be providing \$650,000 in transitional assistance to the county. The county has already received an interim payment of \$170,480 to assist in the development of county official and strategic plans and to pay for a transitional coordinator to assist the Simcoe municipalities during the implementation of the new structure.

While there will be transitional costs for the Simcoe restructuring, the new municipal structure will save money in the long run. Substantial savings will be realized through various aspects of the restructuring. The amalgamations will result in the consolidation of departments, allowing for increased specialization. This should result in improved service delivery, greater efficiency and lower municipal expenditures for consultants.

In addition, the restructuring will result in 44 fewer local politicians in Simcoe, saving the municipalities approximately \$150,000 annually. Staff-related savings will be realized through natural attrition and retirements. The reduction in local building and equipment costs resulting from restructuring is estimated at \$200,000 annually.

In total, the restructuring should eventually save

Simcoe's municipalities over \$1.3 million annually. These savings will likely be realized in three to four years once the one-time transition costs have occurred.

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The reduction in the number of municipalities in Simcoe should also lead to savings for the province. The restructuring will mean that the province will be processing fewer municipal boundary adjustments, official plan reviews, financial information returns and municipal audits. It is estimated that the restructuring will eventually save the province more than \$850,000 annually.

Bill 51 implements Simcoe county council's restructuring recommendations. The bill is divided into eight parts.

Part I establishes the new municipalities in Simcoe, including the composition of the new local councils.

Part II establishes the new Simcoe county council, including the new multiple voting system for the county.

Part III establishes the new hydroelectric commissions in Simcoe. Part III also outlines a process for step-by-step expansion of local hydro service areas. This process is similar to the one currently in place in the southern part of the county.

Part IV establishes the new local library boards in Simcoe.

Part V provides for the standard treatment of financial concerns resulting from the proposed amalgamations.

Part VI addresses a number of miscellaneous concerns, including the appointment of committees of referees to address the transfer of assets and liabilities and the implementation of the county's recommendations regarding suburban roads.

Part VII addresses transitional concerns such as the composition of the municipal and county councils during the period between the implementation date and the next municipal election in the fall of 1994. Part VII also provides for the standard treatment of existing municipal bylaws, in-process applications and unpaid taxes. Part VII also addresses transitional concerns relating to public utility commissions and library boards.

Part VIII describes consequential amendments resulting from the implementation of the restructuring. Part VIII also establishes the short title of the act, the County of Simcoe Act, 1993.

As part of the restructuring, county council requested that the province release the draft legislation implementing its recommendations to allow its member municipalities an opportunity to review the legislation and provide comments. As such, a draft bill implementing the county's proposed restructuring was circulated to the municipalities in Simcoe last fall. Where the suggestions provided did not conflict with the county's recommendations, the legislation was changed to reflect the

comments received.

In addition, since Bill 51 was introduced, a number of municipalities have requested minor changes. The government will be bringing forward amendments to accommodate these requests during the clause-by-clause review of the bill.

In closing, Bill 51 implements locally generated restructuring recommendations. The county of Simcoe provided numerous opportunities for the public to comment on the proposed restructuring. The implementation of the county's recommendations will improve local representation and accountability and provide for effective growth management and greater efficiency in the delivery of municipal services.

In addition, the new municipal structure will provide for better protection for the county's agricultural lands, environmentally sensitive areas and other natural resources.

The restructuring will also streamline local government in Simcoe, resulting in savings for both the province and the affected municipalities.

Thank you for your time. That's it for my presentation.

The Chair: Thank you both for the presentation. We'll now turn—yes, sorry, Mr Wilson.

Mr Jim Wilson (Simcoe West): A quick point, Mr Chairman. I was wondering if either the parliamentary assistant or Mr Griggs from Municipal Affairs could tell us whether the schedules to Bill 51 are available at this time. Secondly, the parliamentary assistant referred to some housekeeping amendments. Are those available at this time?

The Chair: Mr Hayes?

Mr Hayes: We'll have to talk to someone else in the ministry regarding the schedules.

Mr Jim Wilson: They're rather essential to the bill.

The Chair: Just while we're waiting, we'll move next then to Mr Eddy and then to Mr McLean and subsequently to any other questions, of which I know there is at least one. Would it be appropriate if we were perhaps to begin and come back to that question after Mr Eddy—oh wait, here we have—

Mr Griggs: Regarding the distribution of the schedules, they're not finalized yet. We do have draft copies that we're still working on. However, the boundaries are shown on the maps that are around the floor of the chamber, and all of the municipalities have access to the maps. They were actually provided by the county of Simcoe. If there are any questions regarding the actual location of the lines, that's clear. It's just that we're putting those lines into legal metes-and-bounds descriptions for the legal description of the new municipalities. So we're anticipating that those schedules will be available within the coming weeks, and we will

certainly distribute them to the municipalities when they're finalized.

The Chair: And the amendments?

Mr Griggs: Oh, sorry. We were just wondering, Mr Chair, when you were considering a date for the exchange of proposed amendments.

The Chair: Well, clause-by-clause is on Thursday so I think—

Mr Jim Wilson: Any minute would be good.

The Chair: Was there another question, Mr Wilson?

Mr Jim Wilson: With respect to the schedules, it's all fine to have maps located throughout the room, but the fact of the matter is, those maps aren't photocopied and become part of the legislation, so perhaps the ministry could undertake to provide us with the draft schedules at this point then.

Mr Hayes: Some of the amendments, or the house-keeping ones, as an example, with some of the municipalities wanting the ward system and then there are a couple that wanted to elect members at large, are part of those things, and some of the boundaries.

Mr Jim Wilson: When will we see those then, because that's essential. For example, one of my municipalities, Wasaga Beach, its whole presentation is going to be about being exempt from the ward system. If there's an amendment coming, perhaps we could not waste their time.

Mr Griggs: We do have an amendment prepared for that issue with Wasaga Beach, which I believe is the question as to whether they have to establish a ward system or continue election at large.

Mr Jim Wilson: Yes.

Mr Griggs: Yes, in that case it was a resolution of county council and we have prepared an amendment to address that concern.

Mr Hayes: I believe it's in here. Isn't it in this?

Mr Griggs: No, it isn't. It isn't included in the book. However, regarding the map of the new boundaries, there is a map in the briefing book for the committee, at the back of the book, showing the existing municipal boundaries and the proposed boundaries endorsed by county council.

The Chair: Just on the amendments, though, I think the question was, if they're ready, can they be circulated to members of the committee?

Mr Griggs: No, we're not ready to circulate them yet.

Mr Hayes: They're not ready yet.

Mr Griggs: No, we're not ready to circulate them yet.

Mr Allan K. McLean (Simcoe East): Why were you in such a hurry to have these hearings held when you didn't have your material prepared? There's lots of

time throughout the rest of the summer to have had the hearings. Why were they rushed when you didn't have any material to present us? There are municipalities that want to talk about negotiating boundary changes, and if you have something in place that you're going to change, then we should know about it and everyone should know about it. If you're not going to come forth with those changes, what avenue are they going to have when they're here making a presentation during these hearings?

Mr Hayes: If I may, Mr Chair, I think the members pretty well know what the procedures are, members who have been in government for some time. We have these public hearings to listen to the municipalities, listen to individuals, and then the procedure is, and it was all agreed upon, that we would go back and go clause-by-clause and also make the amendments and also look at amendments that the members from the other parties might want to present to the committee. We'll deal with those at that time.

But as far as why we are rushing to do this, I think we rush to do this because members, including yourself, Mr McLean and other members, wanted to have these hearings as soon as possible so we could get this piece of legislation through so it certainly wouldn't interfere with the next municipal elections, for that matter.

Mr McLean: It was going to be done whether we had the hearings or not.

The Chair: With that then I'd ask for any comments from the official opposition.

Mr Eddy: I hesitate to be overly critical of the bill, realizing that this matter has been discussed for many months and several years by Simcoe county council and the councils of the local municipalities and has come to a consensus, and I understand that there is great hope that this will solve many problems.

However, I do have some cautions and I'd like to point out that if succeeding governments of the province of Ontario had not kept county governments as archaic, outdated, inefficient governments to some extent and had provided them with the tools to do the job, we wouldn't be facing the restructuring to the extent that we are now in Simcoe county.

I think legislation should be changed and permissive legislation to get municipalities to cooperate to a much greater deal and indeed to work out their problems themselves. For instance, any county can have an equal voting system. It's very easily done, a decimal voting system based on population, if indeed that county council feels the need for it.

Many things could have been done, many things should be done, and it's my sincere hope that many things will be done in the future to equip locally elected governments to do the job.

I am very pleased to see that the members of local councils will form the members of the county council, because I think it's absolutely necessary to have very close liaison between the two levels of local government, absolutely essential. It's the local councillors who authorize the tax bill and know what costs are all about and what it's doing to the citizens who pay the taxes.

I think one of the most important things in restructuring municipalities is to remember community of interest, because there have been many area municipalities formed in regional governments across this province where that was not considered, and as a result you have feelings of adversity and conflict within the population, and the councils themselves, because that wasn't considered. I'm pleased to see that this isn't, in my opinion, as extensive as the restructuring has been in many other areas.

I'm very anxious to hear those who have requested to come forward and make their presentations and I think it's important to have public hearings and give anybody who wishes the opportunity to speak.

I note that the point of joint services was mentioned in the presentation by Mr Griggs previously. There's nothing wrong with joint services as an agreement between adjoining municipalities. It's ongoing. There are many cases of joint services and will be in the future. Even in a restructuring system, you will have that. Indeed, you will continue to have people in one municipality use the soft services of the adjoining municipality simply because it's closer.

I notice that we're dissolving the suburban roads commissions. It's a joint service and we want to get rid of it, but on the other hand you're establishing joint planning boards, and joint planning boards were dissolved in this province a few years ago. They were prevalent; every separated municipality, almost, had a joint planning board with surrounding municipalities. They were dissolved because they weren't working. We must remember that under the Planning Act any adjoining municipality has the right for input into the planning process and the planning policies of any local municipalities.

I noted another item—it caught my eye right off—about the considerable, shall I say, savings for local municipalities, local taxpayers, and savings for the province. It didn't give the proportions of the savings. I would submit that with the view of having larger municipalities and requiring more services, although there may be savings in some areas, I don't think we should mislead the population by thinking that there are going to be savings in tax dollars, because certainly there will be other services that will be required and that will, I would think, be under way almost as soon as the new municipalities are established.

It also mentioned urban service areas. Any local municipality can have an urban service area with a user-

pay system. I come from what you might call a tiny township—I'd better change the wording—a small township under 4,000. It has an urban service area for water, sewer and hydro, and it works just fine. The people within that area who get the services pay for those services. There are many things here that we're talking about that, although they appear to be new, are possible under the present system.

I believe that's all I have to say. I'm very anxious to hear what the presenters have to say to consider their views.

Mr McLean: The first presenter's for 2:30, is that correct?

The Chair: That's correct.

Mr McLean: I will not use all that time between now and 2:30. I have a couple of questions for the fact-finder. When were you hired?

Mr Griggs: In April 1989.

Mr McLean: In 1989? Have you been fact-finding in other counties other than this one?

Mr Griggs: Generally, my involvement has been under the Municipal Boundary Negotiations Act, which involves negotiations between municipalities for individual boundary adjustments.

Mr McLean: Are you on full-time on ministry staff or are you hired as a consultant?

Mr Griggs: No, I'm full-time.

Mr McLean: Are you fairly familiar with what's going on here in Simcoe county?

Mr Griggs: Yes, I believe so.

Mr McLean: Obviously your report indicates that you are, but I was just a little curious. I didn't read anything in your report that reflected any of the plebiscites that have been held, the votes that have been held with regard to the negatives towards county restructuring, like 80% to 90% of municipalities voting against it. How come you didn't address that in your report?

Mr Griggs: I guess the reason is that this bill is implementing county council's recommendations. County council is made up of elected representatives from the local municipalities. County council endorsed all of the recommendations that we're implementing through this bill. That's the process that was established and that's the process that we're following. In terms of the local plebiscites, it's very easy to word a plebiscite to incite a certain response to it. While I don't think they should be taken lightly, our focus in this exercise was county council's recommendations.

Mr McLean: In your remarks you indicated that there will be a savings. Can you tell me what savings to date there has been in south Simcoe?

Mr Griggs: No, I'm sorry; I'm not familiar with that case. Again, in my presentation I tried to make it clear that the savings will not be immediate, that they will be

in three to four years. We have to realize that the south Simcoe restructuring was implemented on January 1, 1991. We're still in that grace period where the new municipalities are getting up and running from the existing structure that was there before. There is a fairly long transition process before those new municipalities can begin seeing some cost savings.

Mr McLean: In any other area that's been restructured, can you name one that has had a saving?

Mr Griggs: I don't have that information available.

Mr McLean: Then how can you be so sure that there's going to be a saving here when there's no place else that has had one?

Mr Griggs: I don't say that there was no place else, that there haven't been savings; I said I didn't have that information available. In addition, in my mind it seems fairly clear that where you have three municipalities with three separate roads departments, three separate fire departments, three of every kind of municipal department that you need, when you're consolidating those municipalities it will provide for a certain level of efficiency.

Mr McLean: On the figures that you gave us with regard to the transition funding, the indication that I have is that can be in the millions, but if I remember right, it was \$650,000.

Mr Griggs: There were two figures. One was \$2.6 million, which is the transitional funding that's going to the local municipalities to go through this whole consolidation of departments and establish the new administrations in the new municipalities. The second number was, I believe, \$650,000, which is for the county itself to establish the new county council, to set up the new county plan and also to provide for a county transition coordinator who is assisting the municipalities in getting ready for the new structuring in Simcoe county.

Mr McLean: How much has been turned over to the local municipalities for their work so far on restructuring?

Mr Griggs: To date, no money has gone to the municipalities directly. However, we are in the process of getting money together to provide to the local municipalities, and that's one of the reasons why we want to proceed with the bill.

Mr McLean: My understanding was that the money was going to be sent to the administrator of the county and then the municipalities would have to apply for their funding.

Mr Griggs: There are administrative reasons for that. The funding is for new municipalities that don't exist as legal entities right now. It becomes an accounting nightmare to provide that funding to municipalities that in five or six months will no longer exist and in some cases be split between two new municipalities.

The question is how do you account for how much of that funding went to the existing municipality and how much goes to the new municipality. That's why the funding is to be directed to the county for distribution.

Mr McLean: I didn't read that in your remarks.

Mr Griggs: No, it wasn't in the presentation.

Mr McLean: What would the total amount be that you're looking at: \$6 million, \$7 million or \$8 million?

Mr Griggs: Which, the transitional funding for the municipalities?

Mr McLean: Yes.

Mr Griggs: It's \$2.6 million.

Mr McLean: I know there are some municipalities where one is \$400,000 and the other is \$300,000. That's just two municipalities. I can't understand the figure of \$2.6 million that you're getting when I know of two municipalities getting three quarters of a million already.

Mr Griggs: That \$2.6 million is based on a formula that was presented to the county transition committee prior to the bill proceeding. It was based on a formula applied to the number of households switching between existing municipalities.

Mr McLean: I wanted to try to get some of those answers, because I've been asked that by municipalities and I thought it was only fair that some of those municipalities should have some of those questions answered.

Many people here will know that I've been opposed to county government for many years. This is another form of county government. When the last vote was taken, I decided that I would neutralize myself and try and get the best bill possible, because the municipalities, the county, had asked for it. I still don't believe that we are totally right, because when I look at the agenda we have lined up for this week, it's made up mostly of municipalities. I thought the hearings would be for the people to come and have some input into the concerns they have with regard to the municipalities. There have got to be a lot of problems yet with this bill, which is going to be finalized on Friday, if we ever get the amendments before Thursday so we can deal with it.

There are some municipalities that are going to be making presentations that are still looking at boundary changes, so the question I guess I have is, are any more boundary changes going to be allowed in these hearings?

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Mr Griggs: The position of the county from the time that it submitted its study recommendations and the position the province has taken as well regarding changes to the proposed boundary adjustments endorsed by county council was that if the municipalities affected can agree to a boundary change, then we will be glad to

implement it. In fact, that has occurred between Tiny township and Penetanguishene, and Tiny township and the town of Midland, as well as the town of Collingwood and the township of Nottawasaga. There are a number of cases where that process has worked, but we have stressed throughout that it requires the agreement of all the affected parties.

Mr McLean: Yes. I've had questions asked of me by individuals who wanted some of their land switched from one municipality to another on the border. One municipality agrees to it, but the other one doesn't. That was the same answer I said, "I'm telling you, you've got to have both municipalities agreeing." You can't make them agree, but if the facts are laid out here and that individual's facts appear that this should be recommended, would you then recommend that this would take place without the consent of the one that's opposing?

Mr Griggs: You see, facts are slippery subjects in these cases.

Mr McLean: I've noticed that.

Mr Griggs: It's very difficult to decide here or there whether a certain property should be in one municipality or another. The process established under the Municipal Boundary Negotiations Act requires the agreement of all the parties before a boundary adjustment can proceed under the act. That's the position we're taking with these proposed boundaries and it's the position that the county took as well.

Mr Eddy: Too bad it's not used in all areas of the province.

Mr Jim Wilson: Just following on Mr McLean's remarks, I too want to pose just a few questions to the government. I want to begin by asking the parliamentary assistant whether or not the government would have forced restructuring on Simcoe county if at the beginning of this process the county had said no to the restructuring process, because that's the essence of the question of why we're here. Mr McLean and I and others who have appeared in this chamber several times have been told by county council the reason it went ahead was that it had a gun to its head, and yet two successive ministers of Municipal Affairs and now the Liberal Party, which forced the restructuring in the south end, tell us that they're not in favour of forced restructurings.

Mr Hayes: My answer, just very bluntly, is no. As a matter of fact, there are 10 other counties that were on a list for restructuring and chose not to and the government has not forced them to restructure.

Mr Jim Wilson: I appreciate the answer. Then can you explain to me and perhaps the fact-finder, who, I agree with Mr McLean, found some selective facts and certainly didn't find any of the negatives that we hear out there—the government must be aware that county

council consistently told us that it had a gun to its head—what would the basis for that statement be?

Mr Hayes: I don't have a clue; I've never heard it.

Mr Griggs: I imagine you would have to ask county council as well. Throughout the whole county study process it was made clear that it was a local process. In all the other cases where a county council has gone through a study similar to the Simcoe study and the recommendations went before county council and were rejected, no restructuring has been forced or carried through. Simcoe county is the only case where county council endorsed the recommendations for restructuring, and that's what we're implementing, the local recommendations.

Mr Jim Wilson: Thank you. It's a good suggestion. I will ask the county that question when it makes its presentation.

For the record, I too want to indicate that the fact-finder doesn't have in his report any mention of the referenda that were held throughout the county. In my area I think there were six questions on the municipal ballots in the last election, and the average would have been over 90% of the people opposed. I think that's important for the government to understand, because a number of people have said to me, once they got notice that these hearings were occurring and that the act was proceeding, that they thought it was over and done with two years ago when they voted no on the municipal ballot.

Then they look at the more recent Canada-wide constitutional referendum, where the government of Canada did take seriously the results, and they again come back to me and say, "I thought that was the purpose of the referendums." The government has consistently said you can skew questions on plebiscites to get whatever answer you want. It was a very simple question, and that was whether or not the people of a particular municipality were in favour of restructuring. As I said, in my area of those questions placed, the responses were over 90% opposed, on average, to restructuring.

I too agree with Mr Eddy in terms of some of the goals of restructuring that are cited in support of the bill and in support of the restructuring that was forced upon the south end of the county. Surrounding services and the question and desire, I suppose, for county-wide planning, I'm still of the opinion, and I'll be looking throughout these hearings to hear from witnesses in support of restructuring, why do you have to restructure an entire county to achieve the objectives of county-wide planning and some of the services?

I will tell you, and Mr McLean's question is right on, that I've spent the last several months reviewing all of the regional governments in Ontario, many of which were imposed by my party in the past, so believe me,

we come to this with some experience, and the south Simcoe experience to date. There are no cost savings. Bigger is not better. The government cannot point to an area of this province, including south Simcoe, where amalgamating departments has resulted in savings to the ratepayer. It does not exist. In fact, history shows that smaller units are more efficient.

We're only a couple of decades away from the time when my grandfather, out of his own kitchen, as clerk of the township of Adjala, ran the township of Adjala, a little shoebox. Things have gotten a little complicated since then; I understand that. But none the less, I hope the government appreciates the impact this is having upon local residents.

I'll tell you, as the only member here who's been restructured—and part of Mr Wessenger's riding has been restructured—I to this day cannot find anyone in Tottenham, Beeton, Alliston or Tecumseth township who liked restructuring. They do not like it, including a number of people on council. We've had all kinds of problems, and we'll get into it later, with respect to urban service areas.

To this date, the government has spent over \$4 million on the restructuring of south Simcoe, so to come up with a figure of \$2.6 million for this restructuring I find highly unbelievable, when the costs have been more than double that to date in south Simcoe. There are some shocks coming to the people of south Simcoe that perhaps everyone here isn't aware of. That is that once the restructuring transition money runs out—it runs out, I believe, in two years from the province—property taxes are going to go sky-high in the south end. Policing alone, which now has been downloaded by the province, is going to have a major impact upon that municipality. The bureaucracy doesn't get smaller; in fact, it's getting larger.

With respect to this restructuring, there's already talk among some of the amalgamated municipalities or those being forced to amalgamate, that—take the example of Creemore, Stayner, Nottawasaga and Sunnidale—that they're going to need a new administrative centre for that municipality, because currently those four municipalities each meet in a room that would be a quarter of the size of this. They won't have room for their transitional council and they're already talking about how they're going to have to build an administrative centre. I need not point any further than the property next door, where one of the major political issues in the last provincial election was the Taj Mahal next door, which was built by the Simcoe county school board. When people start to see administrative centres having to pop up as a result of restructuring, I tell you they're going to know why their property taxes are going up.

I see this whole thing as a downloading of the provincial government. I don't understand for the world of me, when county councillors complained for years

that they were opposed to downloading that has occurred from successive governments. We see in the fact-finder's own report that the greatest beneficiary of this process is the government itself. The province of Ontario will save \$800,000 annually.

Mr Hayes: That's taxpayers you're talking about, right?

Mr Jim Wilson: There is one taxpayer, but you're downloading on to what the NDP used to believe was a regressive tax: the property tax. Many of the expenses of amalgamation, if you're going to stick to your \$2.6-million figure of assistance, I suggest many of the costs are going to have to be incurred by the ratepayers in the transition period alone.

I want to end by talking about local identity. Again, I don't believe you have to restructure an entire county to achieve some of the goals. In fact, if one looks at the example of Adjala and Tosoronto and one considers that one of the goals of restructuring was to have self-sufficient units, you tell me how Adjala and Tosoronto got together when they don't have nearly the services, even combined, to make them a self-sufficient unit. I say that was a political decision, and I'm well aware of how it came about.

1350

With respect to loss of identity, I notice this map of the county of Simcoe, and one was sent to my office recently. If we take the area of Clearview, already Creemore, Stayner, Nottawasaga and Sunnidale don't appear on the county map. I ran into this in Southampt-on, where the Liberals went around and said you wouldn't lose local identity. I can tell you that respect to a very real example in the former village of Cookstown, now part of the town of Innisfil, I had to fight for several months last year to prevent the town of Innisfil from changing the street names in Cookstown. In fact, if they had their way, I think we probably would have seen the population sign of Cookstown taken down.

It's not very many years ago when there used to be a place called Galt in this province. It's not there any more. Many, many others—I've got over 100 pages sent to me by parliamentary research with respect to the issue of local identities. It's not very long after restructuring, maybe a couple of governments down the road, where maps like that become enshrined and where there's no indication of the municipalities that I ran in on that map. I say that's a shame and I say that those people who will appear before this committee worried about the loss of local identity have very good reason for that.

I'll also end by indicating that a number of the county councillors I knew who ran for election in 1990 were opposed to restructuring and somehow, with the bureaucratic think tank around here, and the same occurs at Queen's Park, they're now in favour of restructuring. I will be asking those councillors specifi-

cally what made them change their minds.

The Chair: There is time for other questions. I know there are several.

Mr Paul Wessenger (Simcoe Centre): I have a question that's perhaps more technical in nature. It probably will require the assistance of legal counsel, who I believe are here today. I've had some concern expressed to me by some of the planning profession about how the act deals with official plans and official plan amendments.

Some of them feel the act does not continue the legal status of official plan amendments as they're proceeding through the process. It may be that there's a lack of understanding, because it may be that there was an absence of provisions in the draft act when it was set out. I don't know whether that was the source of difficulty, but I would like to ask, if I could, for some clarification from legal counsel on that matter.

Mrs Linda Perron: Good afternoon, ladies and gentlemen. My name is Linda Perron. I'm solicitor with the legal branch at the Ministry of Municipal Affairs. I would ask Mr Wessenger to restate his question, because we do have some provisions in the bill that deal with the transition as it pertains to the enactment of zoning bylaws and the continuation of processes undertaken for the adoption of official plans and official plan amendments.

Mr Wessenger: Right. Perhaps I'll just be more specific and start out to say, how will official plans or official plan amendments which have not yet received approval from the Minister of Municipal Affairs be treated under the act? That is those official plans that have been—

Mrs Perron: They have been adopted already.

Mr Wessenger: But not approved by the Minister of Municipal Affairs. In other words, will the municipality have to readopt the bylaw which approves the official plan amendments and do rehearings?

Mrs Perron: A bylaw that has been adopted will be continued under the provisions as though it's been adopted by the new local municipality. I think I'm a bit familiar with the situation you're leading up to, and I recognize there will be situations where policies in an official plan which has been adopted but not approved may not be as workable in the new municipality to which those policies will apply.

I believe some of these details have actually been worked out with ministry staff, who are processing official plan amendments and are aware of the boundary adjustments and will be looking for any, I guess, inconsistencies or incompatibilities in the plans, and where necessary will defer approvals until the annexation takes effect on January 1, 1994, or work out other arrangements with the municipality. I guess ultimately it's no longer a strict legal matter because the minister

has the authority to approve and to decide on the timing of that approval. I think we can all agree that it would be premature to proceed with some of these approvals.

Mr Wessenger: So, in effect, those official plan amendments which have some inconsistencies with other official plan amendments will be deferred until January 1, 1994. Is that correct?

Mrs Perron: That's correct, yes.

Mr Wessenger: The new municipality will then have a chance to work out the appropriate solution to that problem.

Mrs Perron: A lot of the problems could be resolved through modifications, with the hope that the local municipality would be in agreement with the proposed modifications, and again the idea is not to impose anything which cannot work in the new municipality.

I think each case will have to be examined on its merits. I don't have a complete listing of the official plan amendments that are in process, but if something is deserving of approval now and there are no other impediments according to the new municipality, those should proceed.

Mr Wessenger: And they can proceed.

Mrs Perron: They can proceed.

Mr Wessenger: Right, thank you. That's my only question, then.

Mr Daniel Waters (Muskoka-Georgian Bay): I have a few concerns about the act. One of them is that I'd like to know how strongly the ministry feels about section 34 of this act. I'm not going to beat around the bush. I don't see any need for section 34 in this act, and for some reason it seems that the ministry, prior to the present minister and the parliamentary assistant, set down some rules for section 34 that it would be there for ever and a day. I want to know why. Let's be blunt about it.

Mr Hayes: No sense in you changing now, Dan.

Mr Waters: That's right, Pat.

The Chair: That was section 34, which relates to—

Mr Waters: Section 34 is guaranteeing a review for Orillia and for the county of Barrie as in annexing property. It is dealt with under the Municipal Act separately from this. I see absolutely no reason for it in this act.

Mr Hayes: First of all, Mr Waters, it would be permissive and not mandatory. The fact of the matter is that the minister can review these amendments. There was some discussion that some cities I think wanted it to be changed from "may" to "shall."

Mr Waters: But the city of Orillia and Barrie are not part of the County of Simcoe Act, and everyone I talked to in the rural sections either doesn't care or is opposed to section 34. It has been a matter of contro-

versy. When I look across at the other two members, from the Tory party, who represent Simcoe county in the rural sections, we all get the same thing.

The ministry seems to have this. They have the power under the Municipal Act completely separate from this. They do not need it in the Simcoe County Act. Why is it there and why are you adamant about keeping it there?

Mr Hayes: I don't think I'd be adamant at all, Dan.

Mr Waters: The ministry is.

Mr Hayes: The ministry may be, and if you're talking about all four members here as saying it should be out, we can certainly bring it back to the minister and take a look at this. There may be another amendment to deal with this issue.

Mr Waters: Okay. I'm going to go back to what Mr Wilson and Mr McLean said. They both mentioned savings.

I've lived under restructuring under another name. It was called district government back in those days; it's restructuring. I can tell you that to this day, most of the people in the district of Muskoka would like to get out of it. It's cost us more, dramatically more. It's been unfair to the small communities. We've lost everything, including our schools in small communities, and you're saying there's going to be a saving. I want to see it.

1400

The north end of this county is not wealthy. It is not populated. There is a large section of road work that has to be maintained. As the representative of those people, I think we need to know where the savings are going to be, how these people are going to be paying less. When you have a mainly rural area that is patrolled by the OPP because it's just roads—four houses at an intersection does not make a community—and it's my understanding under this that they will have to pay for policing, I'm concerned.

Mr Griggs: I can answer that question right away. There's no provision for requiring any municipality that is not providing policing or not paying for policing directly now to pay for it as a result of this restructuring. The only case where new areas are going to be policed by local police forces are the areas added to the towns, specifically Midland, Penetanguishene and Collingwood. In all other cases, policing by the OPP will continue and there will be no cost impact on the municipalities.

Regarding your comparison of the Simcoe restructuring and the creation of district governments such as the district of Muskoka or regional governments, this is completely different. This is a local process, locally directed. In the case of Simcoe county, they chose to strengthen the local municipalities rather than shifting services to the upper tier as occurred in the regional governments. The only new services that are being

taken on by the county of Simcoe are in county planning. They are not assuming any services from the local municipalities. So I would argue that it's significantly different than any restructuring that has occurred before in Ontario.

Mr Waters: Okay, then let's follow along that line a bit. One of the things that I think the people need to hear is that there's going to be some flexibility, let's say, at least in the first 10 years, some regular reviews to make sure indeed that this act is doing what it's supposed to do. Has there been any discussion about this? Is there going to be any discussion about this?

Mr Griggs: No, there has been no discussion on that kind of process. I'd just like to point out that it's impossible to take a municipal unit and say that if it wasn't restructured, it would have saved money. Saying that regional government in an area like around the GTA is expensive frankly does not make sense because you have no idea what it would cost to run government if the existing governments were still in place. You have no way of comparing the existing municipal structure down the road if it doesn't continue.

Also, the cost impacts in any area are the result of decisions of local councils. So if the local councils elected for these new municipalities make decisions for service delivery, then that will have cost implications. That's clear, whether the area is restructured or not. So to blame all cost increases or any increases in taxes anywhere in Ontario on restructuring frankly is just unfair and misleading.

Mr Waters: I can tell you that I live it, and tax increases in a restructured area are a lot greater than in those that aren't restructured.

Mr McLean: Excuse me, Mr Waters. Could I have a clarification with regard to the police?

Mr Waters: Yes, that's fine.

Mr McLean: My understanding was that there have been committees in the county, police meeting with regard to county restructuring. If they're not going to be affected, why are they meeting?

Mr Griggs: My understanding was that representatives from the Solicitor General are meeting with the three towns that I mentioned—Midland, Penetanguishene and Collingwood—to discuss the transition for the areas being added to the towns so that the towns are prepared to police those relatively small areas that are being annexed to those town municipalities where they have existing police forces.

Mr McLean: So the OPP who's going to be appearing before us at the end of this week—why would he be appearing before us as an OPP?

Mr Griggs: I have no idea. I would wait for his presentation and find out then.

The Chair: Mr Waters, you have another question?

Mr Waters: Yes, a few more. One of them is—and I look up into the onlookers up here and I see some people. I know he's going to bring it up, Mr Armstrong, and that is MOE. He and I have had correspondence and discussions with them. I guess I'm curious: Has the Ministry of Municipal Affairs talked to the relevant ministries?

Mr Hayes: Yes.

1410

Mr Waters: Because MOE has used restructuring as a weapon. In the case of Port McNicoll, MOE indicated that: "We will talk to you after you're restructured. Until then, have a good life." I guess have some concerns about this type of thing going on.

Also, when we're talking about MOE, in the case of Midland, I agree: Midland has to take over the mall strip. Whether there was restructuring or not, something had to be done there. Have there been discussions, also with MOE, about providing funding so that Midland can indeed enlarge its service area to cover this major area on the outskirts of its town that it's now going to take in? Because as soon as it takes it in, those people are going to want their servicing.

Mr Griggs: In answer to both your questions regarding MOE's treatment of the village of Port McNicoll, while I can't respond based on decisions of another ministry, I can understand the rationale for making that kind of statement. The fact of the matter is that if this restructuring proceeds, which I'm assuming it will, the village of Port McNicoll will cease to exist on January 1, 1994, and become part of a new municipality.

It's a similar situation to what we were discussing earlier regarding official plan amendments. It makes no sense to pass official plan amendments that will not be rational when the new structure is created, just as it makes no sense to make decisions on servicing or funding for servicing when that municipality will cease to exist in several months.

With regard to your other question regarding service extensions from the town of Midland to the area to be added from Tiny township, our ministry staff have been having discussions with the town of Midland. I believe we have come to an agreement for some extra transitional funding for the town of Midland to take into account those additional servicing costs for providing services to those areas.

Mr Waters: Okay. One of the differences that I've seen between the north Simcoe act and the south Simcoe act is when it talks about employees. I believe in the south Simcoe act an employee's wages are set as of—if I remember correctly, it was the December of the year that the bill was passed, yet in this act you're saying in July of that year.

I happen to represent probably two of the poorer

municipalities in the north end. The one in particular is very sparsely populated. Their employees are being paid at a rate reflecting the population. They're going to be lumped in with probably one of the better-paid groups. We have some problems. Has the MMA been dealing with those problems—namely, the Coldwater/Matchedash/Orillia township problems—and, if so, where are you in the process?

Mr Griggs: We have been having discussions with the municipalities regarding that situation specifically between Orillia township, the township of Matchedash and the village of Coldwater, and the treatment of the employees of those municipalities when the new structure is created.

I should point out, however, that the section in the bill that provides for protection for employees sets a base salary—in other words, a salary no less than the amount provided on July 1, 1993—so it's not a maximum salary per se. So there's no limit on that.

Mr Waters: Okay.

Mr Griggs: In terms of providing for some kind of additional protection for the employees who are put at a disadvantage—as you say, the two poorer municipalities—I think that we're willing to entertain any amendments that would accommodate that at clause-by-clause.

Mr Waters: Okay. Also, in the same area, and I'm speaking for the riding that I represent, the new Tay township has lost, not necessarily all because of restructuring, but because of impacts of other ministries on that region, such as the rebuilding—one of the main ones is the rebuilding of Highway 69 and the complete decimation of their commercial tax base along that; it's gone.

When I look at it, when I talk to the people at the municipal level, they're all saying the same thing, and I agree, everything that I've seen, these people's tax base is going to be less with restructuring. They're going to lose. Now, how do we deal with that in the long term? There's some transitional funding, but that isn't going to do it. So are you going to pay for ever?

Mr Griggs: No, definitely not. There won't be a payment for ever. The whole point of the restructuring was to correct inequities and problems with the existing structure—

Mr Waters: But you've traded one.

Mr Griggs: —and we all have to recognize that there will be some shifts in property taxes and some changes resulting from the restructuring, but in the long term it should save money.

Mr Waters: Where? It isn't going to for these people, obviously. In your answer—you haven't said it, but you indicated a tax increase for these people.

Mr Griggs: No, I didn't say that. I said some areas will experience tax increases, others will experience tax decreases, but overall it should save money. In the case

of Tay township, it's combining with two small villages, the village of Port McNicoll and the village of Victoria Harbour. So in that case you have three separate councils, three separate administrations, all providing similar services. In my mind, it seems fairly clear that when you combine those three units you'll have some cost savings.

Mr Waters: Okay, well, I will let them take that up with you at the appropriate time.

Mr Jim Wilson: Mr Chairman, just a—

Mr Griggs: I believe they are on the list for—

Mr Jim Wilson: Just a point on Mr Waters's point, if I may, Mr Waters. Perhaps I could ask on our behalf, then, why the Ministry of Finance is undertaking a tax impact study with respect to restructuring, what's the status of that study, and are there any preliminary findings?

The Chair: Parliamentary assistant?

Mr Hayes: I'm not aware of that.

Mr Griggs: Yes, I wasn't aware that the Ministry of Finance was doing a tax impact analysis for the restructuring. My understanding was that several years ago the county of Simcoe had requested a study on the impacts of countywide reassessment under section 63 of the Municipal Act, I believe. I believe that's the study that the Ministry of Finance was conducting.

Mr Jim Wilson: Actually, I do stand corrected. It is a tax reassessment study.

Mr Griggs: That's unrelated to the restructuring.

Mr Jim Wilson: Is it unrelated to the restructuring?

Mr Griggs: Yes. That request from the county, I believe, came before the whole restructuring exercise began.

Mr Jim Wilson: But if it's unrelated to restructuring, and certainly legislative research—in fact, some of the drafters of the bill don't believe that that tax impact study is unrelated, because the questions that they formulated in this area that I've reviewed were with respect to the sections in Bill 51 which allow for phase-in of tax increases, and it was suggested that I ask the ministry what protection the ratepayers might enjoy from the government if the county does go to market values, 1992 level countywide, and we see tax increases as a result of restructuring in some of the new administrative buildings that'll have to be put up etc.

Mr Griggs: Okay, in terms of the impacts of restructuring versus the impacts of reassessment, we have to recognize that these are two separate processes and in both cases the final decision is with the county. For the reassessment, the county has asked for a study to find out the impacts of a reassessment, and my understanding is that when they get that study they will make a decision whether to proceed or whether not to proceed.

In terms of protection for municipalities, I believe the bill provides for the phase-in of tax increases. Section 27 on page 20 of the bill provides for a regulation-making process to allow for the setting of local property taxes in annexed areas to address that phase-in of tax increases where they occur.

Mr Jim Wilson: What worries me in that section is, in the previous section, I believe, it talks about tax increases of more than 20%. Is the government envisioning that some of these areas that are being annexed will see property taxes go up by at least 20%?

1420

Mr Griggs: No, that was a recommendation that was passed by county council. That was their criteria that they established for areas that should have tax increases phased in. My guess is that the county study committee felt that a 20% tax increase—and, again, we're talking about a local tax increase. We're not including county taxes and school taxes. So we're talking about, in some cases, a quarter of the total property tax bill. A tax increase to that quarter greater than 20% should be phased in, and that was a decision that the county study committee made and it was endorsed by the county council.

Mr Eddy: I just wanted to state how much I strongly support the suggestion that section 34 be deleted from the act, because it's stated that the minister has that power in the Municipal Act and that should be deleted too, because there is a boundaries act which was negotiated between the government and the Association of Municipalities of Ontario, whereby any municipality may at any time apply for a boundary adjustment. It gives the opportunity for all and any interested parties to appear and state their cause, and it's a negotiation.

Of course, it's very unlike the appointment, as we've seen, of an arbitrator completely inexperienced in municipal government coming forth and making recommendations approved by the minister in the case of London-Middlesex. We really need to get away from that sort of desperate move.

Mr Griggs: If I can just provide a clarification regarding section 4, which provides that the minister may undertake a review of the municipal boundaries of the city of Barrie and the city of Orillia, I'd like to point out that this does not provide any new authority to the minister. It does not allow the minister to change the boundaries of the cities. It does not allow the minister to, with the strike of a pen, redraw the municipal boundaries. All it states is that the minister may undertake a review of the cities' boundaries. I just wanted to provide that clarification.

Mr Eddy: Yes, a review of the boundaries would be, I would imagine, though, at someone's request to change them, or why would you review them? Any process to change boundaries should be under the boundaries negotiations act, because it's open to any

municipality at any time.

Mr Jim Wilson: Just a couple of quick questions while we still have time before the presenters. I note from the brief submitted by the corporation of the town of New Tecumseth that it will be requesting of this committee and of the government an adjustment to the easterly boundary of that town. I can get into the issue later, as I'm very familiar with it and I've met with Mr Cooke and a delegation from the town when Dave Cooke was Minister of Municipal Affairs.

I'm just putting the government on notice that that request will be coming. I'm wondering at this point whether, during this process, Mr Hayes, the government will be contemplating changing any of the boundaries in the south half, as has been the longstanding request of the town of New Tecumseth, since this is the only opportunity and since we're scrapping the 1990 County of Simcoe Act.

Mr Hayes: At the present time, these recommendations are made by county council—the boundaries—and I'm not sure if we can just arbitrarily start changing boundaries for each individual municipality. So we'll have to deal with that during clause-by-clause, I guess.

Mr Jim Wilson: Secondly, I have a specific question with respect to police villages. I notice in the bill that in my area the police village of Everett and the police village of Angus are to be dissolved. We don't have the schedule so I don't know what the ward system looks like. I have people in the current village of Angus who feel that they're underrepresented now because they're part of the larger township of Essa. Essa's getting larger, the police village is being dissolved and the ratepayers of Angus are wondering how they're to be represented in this whole scheme. Everything they've heard to date leads them to believe that they're going to be underrepresented because their status is being dissolved. So does anybody from the government have a response to that specifically?

Mr Griggs: I can respond to your question. Regarding the establishment of ward boundaries, the bill provides for a process whereby each of the local municipalities submits a ward proposal. So in that case, the definition of the ward boundaries is at the local municipality's discretion. So if there are some questions about whether there is going to be a ward created for former police villages, I would suggest that those people contact the local municipality involved.

The Chair: I think that brings us to the close of the introductory part of the hearings, even a little bit ahead of time. So if Mr Stan Wismer is here, I would ask him to please come forward. We have received copies of Mr Wismer's submission. Just give him some time to make his way down. While we're doing that, Mr Wilson.

Mr Jim Wilson: A preliminary discussion with Hansard indicates that the transcripts of today's meeting

may take a while. I was wondering if the committee could put in a request, and I would request, that these transcripts be available as soon as possible. It's my understanding that perhaps the tapes were not going to Queen's Park till Thursday. In fact, for our purpose locally, we need the transcripts for today's hearings prior to Thursday.

The Chair: I'll discuss that with the clerk, and perhaps at the end of the day we can come back. Mr Wismer, if you wouldn't mind, in order for us to tape the proceedings we'll need you at the mike. If you want, I'm sure it would be all right to bring that whatever-it's-called forward to show us. Is that all right? We can just move the stand forward. I don't believe these mikes are movable, so if you wouldn't mind just sitting in the chair closest, then we can hear you. Just before we begin, Mr Hayes.

Mr Hayes: I just wanted to make a point. On the question about the government motions or amendments, I would request, Mr Chair, if we could possibly have the members from the other parties indicate or if you could set a time when they could bring their motions or amendments forward so we may be able to exchange those. We are very flexible. We'll try to rush ours as soon as possible.

The Chair: I believe the practice has been that if people want to do that, we do have our clause-by-clause on Thursday, but I would think it would help everyone the sooner everyone saw those amendments. Perhaps the whips can discuss that among themselves.

STAN WISMER

The Chair: Mr Wismer, we have a copy of your presentation. You have 15 minutes, and please begin.

Mr Stan Wismer: Honoured members of the standing committee, I thank you for the opportunity to explain this recommendation. I was listening to the comments on boundary adjustments and I have since the beginning of the process. However, with an official county plan coming and with it land use designations, I have continued to follow the process, and I believe some of the things that I have to say are worthy of consideration at least.

Because today we live in a time when there are certain kinds of land that are to be used only for certain specific uses and only in certain areas, it's with this in mind that I state my purpose for being here: It's basically to find the highest appropriate use of my property in the location that it is. That's my reason for being here. I'm not a defender of the public interest today; however, I also understand that any appeal I make needs to be within the public interest. From various departments that I have spoken to, they feel that there are at least some reasons to be very beneficial to the public interest, and so I have continued.

My family has owned this property since the early

1960s. We farmed it. I'm no longer in a position to continue farming it. It's located in the northwest corner of the city of Barrie, in this area right here. I thought I'd probably just indicate briefly a little bit of the description of the land and then talk about some of the public policies that I believe are relevant to the situation and then close with just a few recommendations.

1430

These lands lie within the Barrie Kempenfelt watershed and I believe they relate more appropriately to urban use than to rural use and therefore to the city. As you can see, this is the city boundary here and the watershed's coming here. The yellow indicates the properties involved. There are no hardwood trees or environmentally sensitive issues involved in this parcel. There are storm and sanitary services with capacity in the pipes already existing in the ground in this section and this section here. Also, these lands lie adjacent to a significant transportation issue which has apparently not been able to be resolved.

In regard to the public interest now, first the provincial interest and in regard to the watershed, I notice that in the Growth and Settlement document prepared by the same ministry we are dealing with today, which I take it is an approved document, it states on page 5 that, "Land use planning be coordinated with and facilitate implementation of related initiatives such as servicing strategies, watershed plans and remedial action plans." That is on the papers that I gave you there today.

Also from the provincial interest with regard to these lands having capacity in the existing storm and sanitary piping, again in the same document, on the same page, on page 2 of the document I circulated it says that,

"All opportunities to use, expand and upgrade existing infrastructure and public facilities to accommodate growth be evaluated and, where practical, utilized before developing new infrastructure and public facilities."

The question is, would it be in the public interest for the city to develop new infrastructure in new areas before this possibility is utilized?

The regional interest circulates around the road I described that intersects the property right here. A recent study by the city of Barrie, a transportation study completed in October 1992, says that the northern area of the city of Barrie ranks second for the highest population and will continue for the next 10- to 15-year time frame. It also identified the north area as standing second out of nine sectors for the highest number of destination origin on that table. So traffic concerns are with us not only at the present but also into the 10- to 15-year time frame. Already on Bayfield Street there are capacity concerns, and now on Highway 90, and to a lesser extent also on Anne Street.

Ferndale Drive is the proposed solution to the ongoing traffic problems in the northwest end of Barrie.

It is to be a four-lane, paved arterial road and will start north of Vespra, from Vespra in the north to Innisfil in the south. As you can see, I've tried to indicate it in this pink area. You can just see certain parts that are completed already. It intersects the highly congested Highway 90, and with the Sunnidale Road here, which is the only other arterial road that leads west out of the city of Barrie, proceeds on to this asphalt part of the 7th Concession of Vespra, which takes it up to Highway 26, which leads into Bayfield Street.

The concern and the problem here arises that when this is completed, this here is already a 90-foot road, four lanes, and it leads into a quarter of a mile of gravel road before it's able to resume on the paved portion of the 7th Concession of Vespra.

The issue that has been debated is, who will pave this road? Will the city of Barrie pave a road that is in the township of Vespra or will Vespra pave a road mainly for city traffic, bearing in mind that this piece of land is within the Barrie watershed?

My suggestion is that even if everything continues on as it is and the land remains in the township of Vespra, and even if Vespra township does agree to pave the road to township standards, if and when this land does come into the city of Barrie, it will all have to be torn up because there will have to be services put in and urbanized to city standards. I'm saying that with the decreasing pool of taxpayers' money today, that's not a wise use of taxpayers' money.

Also, at this point right here, there is an environmental study taking place right now on these lands, and they are usually only begun when a project is within three to five years from construction. So it's reasonable to assume that those lands will be constructed in five years, and I'm saying that it would be a positive thing for the area if the gravel portion of the road could come into a closer time frame as this other part that has to be completed. If we wait for five years and nothing is done and that other part is reopened, there's going to be a considerable amount of traffic utilizing that arterial, as anybody who knows Barrie will tell you. That's not really the time to start planning I guess is what I'm saying.

Okay, my recommendations. You'll have to let me know if I go over; I've lost track.

I recommend amending Bill 51 to allow for this minor technical adjustment. It makes sense in terms of being able to utilize the force of gravity and to be sensitive to the environmental aspect in terms of the watershed. The public could reap the benefits of revenues already spent on infrastructure in the area, and if it's not allowed to be utilized, it will be money wasted. To permit the upgrading of this road through lot levy or through condition of development would leave no cost to the municipality of Vespra or the municipality of Barrie. Apparently there is no other solution that has

come out of this. I wonder if this is not a win-win situation for everybody. It seems like the window has been opened with the process of restructuring for this thing to be resolved.

I would like to make one comment on the township of Vespra. I acknowledge that my recommendation would lead to a loss of land for the township of Vespra, but I would just like to say that I believe the loss of that land was initiated long before this when the public became concerned for environmental issues and for watershed planning. I can only say that the city of Barrie acknowledged the arguments I gave and supported the proposal. Two other owners who are also involved have supported the proposal, and I've given the letters of the township of Vespra and Barrie in the sheets there.

Just a few closing comments. I guess I would just like to say that I think that some kind of changes were in order to prepare for the growth in this area that the restructuring process has brought. I do have some questions about the cost savings that have been mentioned already even today, and I agree that there is reason for concern there, especially in situations like this: \$800,000 savings a year doesn't sound like very much when you consider the savings that could be realized in this one small minor adjustment.

If these kinds of opportunities are not taken, it leaves me with a larger question. I think one thing the Japanese have taught us is that through unity and cooperation, it can equal progress, and I guess I think it's something to be kept in mind. So far in this process, municipalities that cooperate with the cities may be penalized and lose land, and those who do not cooperate may be rewarded. I don't know, but perhaps some differentiating of the policies between greenbelts and watersheds may be in order.

Just to read the conclusion, therefore I recommend to all members of the standing committee on social development to amend Bill 51, the County of Simcoe Act, to allow for this minor technical adjustment of this neck of land into the city of Barrie. The property is described on your sheet.

I ask this to prepare for the appropriate use of the land in accordance with provincial public policy and to facilitate the more efficient use of public revenues and to permit the upgrading of a necessary arterial road. In the interests of environmentally sensitive planning, this recommendation I believe is appropriate.

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The Chair: Thank you very much for your presentation. We still have just a little bit of time and I believe there's a question from Mr Wilson.

Mr Jim Wilson: I really don't have a question, other than to reiterate what I said in my opening remarks. It would be impossible for us at this point,

even if we were to agree with the presenter, to put forward an amendment, given that we don't have the schedules to this legislation, and I don't think we should be proceeding without them.

Mr Griggs: I can respond to that. The schedules merely describe the lines in legal terms.

Mr Jim Wilson: In legalese you see the lines.

Mr Griggs: Yes.

Mr Jim Wilson: I'm well aware of what schedules do.

Mr Griggs: If we have a proposal that's put forward that everybody can support, then it's just a matter of preparing a schedule to describe that portion or property to be transferred between the municipalities. I don't believe we need the legal metes-and-bounds descriptions of the new lines of the new municipalities in front of us to proceed.

Mr Jim Wilson: I do. If you haven't gathered from my questioning to date, I don't trust the Ministry of Municipal Affairs. Having seen legalese come out after a process that doesn't quite match what we thought the process was, and as Health critic I can tell you it happens all the time with our Health bills, I and I think every committee member here would like the schedules. I don't understand, when you've had ample time to prepare, why the ministry doesn't have those.

The Chair: Parliamentary assistant?

Mr Hayes: If I may, just to let Mr Wilson know that the municipalities will have input in this and they'll be able to review the maps and the schedules prior to the legislation going through. I think the purpose here in the first place—I thought I made it clear earlier—is that we are going to be going clause-by-clause after we hear presentations from individuals and municipalities and associations or organizations. That's the purpose of this committee and that's why we're here today.

Mr McLean: Could I have a clarification? As was indicated before, if the two municipalities didn't agree, it wouldn't happen. If this committee has a motion to put in an amendment to allow this to happen, will the ministry accept it?

Mr Hayes: I'm not sure. Just on this, Mr Chair, and I think it's important here right now, actually it's a question I guess I'd have to ask Mr Wismer about. The thing is that the one municipality hasn't agreed with your request. My question to you is, have you contacted county council also on this, because in fact they would have a say in this also, and you have to consider that the city and the county are both separate. They're not part of the county.

Mr Wismer: Yes, I have tried to maintain contact with the county. I submitted a number of letters through the process. However, this recent meeting came up so quickly that I did not have a letter to send in immediately for the county at this time.

One thing that has kept me thinking or to be involved in the process is that at the very first restructuring it said that there would be no major changes. No one seemed to look at this as a major change. This looked to be a minor change. But, again, I guess I feel that when this thing is all said and done and there's cost savings involved, I want to at least have said I put it forward, I've left it in the hands of the decision-makers, and some of the fine points of what the minister had said that he would resolve, some outstanding issues, I didn't know if this qualified under one of those, so I put forward my best foot.

The Chair: We have time for just one last question.

Mr Wessenger: Thank you, Mr Wismer, for your presentation. The township of Vespra is opposed to this change in boundaries. Is it basically because they want to preserve a greenbelt, or would they consider allowing you to develop the lands within the township of Vespra itself?

Mr Wismer: I don't know how much I should be speaking on their behalf. I can only say what I interpreted from my speaking with the township of Vespra. Granted, I believe the greenbelt policy is a valid principle, but I just felt there could be some flexibility there since it's just farm land north of the area. In terms of whether I could develop in Vespra, I didn't get the opinion that would be possible.

Mr Wessenger: Right, so you feel that your lands could not be developed within the township of Vespra or within the new town of Springwater.

Mr Wismer: That's correct.

Mr Wessenger: Could I just get a clarification—

The Chair: A brief clarification.

Mr Wessenger: —from staff with respect to the annexation procedures? I'd just like clarification. Is it only municipalities that can initiate annexation procedures, or can citizens under the Municipal Act, subsection 14(2), commence annexation proceedings?

Mr Griggs: In fact, the Municipal Act, subsection 14(2), only applies to municipalities in northern Ontario. The process for altering municipal boundaries in southern Ontario in counties, such as the county of Simcoe, is the Municipal Boundary Negotiations Act.

Mr Eddy: Except in the case of Vaughan and Middlesex.

Mr Griggs: Or under separate legislation such as we're considering here, or the London-Middlesex Act.

Interjections.

The Chair: Order, please.

Mr Wessenger: Could I just follow that up?

Mr Griggs: The only way to alter municipal boundaries under the Municipal Boundary Negotiations Act is through a municipal bylaw initiating the process. There is no opportunity for a citizen or group of citizens to

petition for an application.

Mr Wessenger: Can't a municipality, as formerly, petition for an annexation, as they used to be able to?

Mr Griggs: A municipality can, yes, but an individual ratepayer cannot. That individual must convince one of the councils to apply for a boundary change.

Mr Wessenger: Right, fine; thank you very much.

The Chair: Thank you very much, Mr Wismer, for coming before the committee and for leaving us with your brief.

CITY OF BARRIE

The Chair: I'd now call on our next witness, the mayor of the city of Barrie, Ms Janice Laking, if she'd be good enough to come forward. Welcome to our session this afternoon, your worship. If you'd be good enough to introduce your colleagues, then please go forward with your presentation.

Mrs Janice Laking: Thank you very much, Mr Beer. I have the list of my colleagues being delivered to you, as you requested, so you will have them for the record. I have with me Alderman Jim Perri, Alderman Anne Black and my city administrator, Mr Peter Lee. Thank you for having us.

Attached for your reference is a copy of my comments to the committee on August 23, 1993. That really is just a memorandum for you, sir. I'll start on the next page, and there's no secret information on the first page.

The Chair: Did you say you have a copy of your submission?

Mrs Laking: Yes, we have copies.

The Chair: Okay, fine. If the clerk could receive them, he'll make sure the members have copies.

Mrs Laking: Mr Chairman and members of the committee, thank you for the opportunity to meet and to talk with you about the city of Barrie's perspective regarding the restructuring of Simcoe county.

Since 1990, when the city of Barrie began to formally participate in the process of reviewing the structure of municipal and county government in Simcoe county, the city has acted in good faith. We have, through our participation in the process, attempted to promote a concept which would result in the provision of services in the most efficient manner and in the formation of a political structure that recognizes true communities of interest.

Through 1990 and up to January 1991, when county council approved a recommendation to remove the representatives from Barrie and Orillia from the county restructuring committee, the city of Barrie fully participated in the restructuring process. This participation included providing planning, engineering and clerical assistance to the committee at no cost to the county.

Barrie's participation in the process was focused on helping to attain the goal of ensuring that all municipal-

ities are organized into viable, self-reliant administrative and geographic units, capable of providing responsible, effective and representative government.

The city of Barrie believes that a restructured county can, and should, provide significantly improved opportunities to plan, organize and manage the environmental, cultural and economic assets of all municipalities in the county. The city believes that the restructuring of Simcoe county must establish municipal organizations which will be capable of dealing with the issues of the future.

1450

When evaluating Bill 51, members of the committee must ask whether the proposed legislation adequately addresses the opportunities offered by restructuring. As previously presented, the city of Barrie believes the opportunities offered include the chance to restructure the county based on the following principles.

Financial stability: We believe that restructuring should result in the creation of municipal entities which are financially strong and independent. Municipalities must be well-financed and large enough to reduce competition among neighbours for an assessment base that is finite across the county.

Communities of interest: We believe that municipal boundaries should recognize communities of interest as well as the physically and culturally significant features of the landscape. The establishment of boundaries that recognize communities of interest will assist in focusing growth in urban areas and will help to reduce rural fringe development.

Sustainable development: We believe that any restructuring of municipal boundaries should support the concept of sustainable development.

Environmental planning and coordination: We believe that fewer jurisdictions and municipal entities with boundaries that reflect natural geographic features would represent the most appropriate response to improving the overall ability to guide future development in an environmentally sensitive manner.

Nodal growth: We support the concept of nodal growth. Restructuring should result in new municipal boundaries that include at least one major urban concentration. Growth should then be concentrated within these urban communities.

Accommodating future growth: We believe that the land base of an urban municipality should be large enough to do more than accommodate growth within a fixed planning horizon.

Unfortunately, it appears that due to a number of varying influences, adequate attention has not been paid to these crucial areas of concern within Bill 51 as introduced by the provincial government.

As previously presented to the Minister of Municipal Affairs, the city of Barrie believes that exclusion of the

city of Barrie and the city of Orillia from the process of developing Bill 51 has led to the formulation of a proposed county structure which does not fully address the long-term objectives of the county restructuring exercise.

The decision-making process which culminated with the introduction of Bill 51 focused on the achievement of consensus rather than the original, more broadly based purpose of the county study. From the beginning of the county restructuring exercise, the city of Barrie's been anxious to deal with the issues of the next decade and the next century. The city has for a long time recognized the importance of integrating environmental concerns with the planning process.

The mismatch between municipal boundaries in the Barrie area has, and will, lead to increasing environmental and interjurisdictional conflicts. The potential for conflict will not disappear unless Bill 51 appropriately addresses the issue of boundary adjustments, including adjustments for the city of Barrie.

In previous submissions to the minister, the city of Barrie requested that the concepts of sustainable development and an environmentally responsible approach to future growth be supported. The city of Barrie has recommended and still supports provincial action to immediately undertake a number of minor boundary adjustments. These adjustments, together with the establishment of a joint planning area outside of the city's boundaries, would help to address the watershed and drainage issues which are most pressing for the city.

Recognizing that the city of Barrie's concerns are not the primary focus of Bill 51, the city of Barrie has, independent of the province, undertaken a number of steps to address Barrie's concerns while facilitating greater consultation with neighbouring municipalities and the county.

These steps include extensive consultation with representatives from our four neighbouring municipalities regarding specific matters of interest to the city of Barrie and those municipalities. Specifically, the city of Barrie has proposed and discussed the following matters with our neighbours:

(1) Creation of a fringe management area located within the adjacent municipality and under the jurisdiction of that municipality.

(2) Control of the fringe management area would be through separate agreements between the city of Barrie and that municipality.

(3) Land use in the fringe management area would be restricted to agriculture.

(4) That all municipalities should subscribe to the philosophy that land development must be ecologically responsible and must be supported on full municipal services.

(5) That the city of Barrie and the adjacent municipi-

palities recognize the potential for mutually beneficial intermunicipal service agreements and that either party may request consideration of joint service arrangements, as appropriate.

The city of Barrie has found that the previous annexation agreement with the town of Innisfil has been a very useful and successful arrangement for managing boundary issues. That agreement could serve as the foundation for a model for resolving the outstanding city issues and areas of interest.

In support of greater consultation with the county, the city of Barrie has recently appointed a city alderman as a full voting member of the county planning committee.

Although the city of Barrie has outlined its position on the issue of joint planning a number of times, it is important to note once again that the city does not support joint planning with the county and does not support the management of any fringe management through a formal joint committee structure.

The city of Barrie has worked very cooperatively with the provincial government and with the adjacent municipalities in attempting to facilitate resolution of the outstanding county restructuring-related issues. It is now time for the provincial government to finally resolve the outstanding issues in order to address the important matters affecting the city of Barrie.

The city of Barrie is the largest municipality in Simcoe county and is a provincially designated growth area. As such, the economic, social and ecological interests of the city of Barrie are of major importance to the whole county. Bill 51 and the matters contained therein have significant implications for the city of Barrie.

For these reasons, the council of the city of Barrie believes that the legitimate concerns of the city must be addressed by the provincial government. The city appreciates the opportunity to appear before the committee today and confirms our previous requests to meet with the minister to discuss county restructuring-related issues.

The Chair: Thank you very much for your presentation, and we'll move right to questioning, beginning with Mr Wessenger.

Mr Wessenger: Mayor Laking, you have indicated you're not in favour of the joint planning process with respect to the boundary areas with the adjoining municipalities. Is that correct?

Mrs Laking: Mr Wessenger, as a former member of my council, you know the kinds of demands that are made on municipal councillors. We are in favour of working individually with the municipalities on our boundary. We're not in favour of trying to find consensus among all four of them. It may be that the agreement we make with the four municipalities will be identical, but we see that agreement only having to be

affected if there is a matter of interest to the municipality in which the land is that would then request us to consider its proposal for that particular land.

In actual fact, Paul, what's happened with Innisfil is that we have never had to meet on that because Innisfil, under the annexation agreement, has not had a proposal within that area that was protected for which it was prepared to recommend approval to us. So it might save us a lot of meetings. That's our concern.

1500

Mr Wessenger: Would you feel that you'll be adequately protected at the stage that we have an official plan in effect for the county of Simcoe?

Mrs Laking: I would think it probably needs a little stronger line drawn, but that might be a fallback position, Paul. I'm not sure how tight the regulations within the boundaries of our municipality would be indicated in that official plan.

Mr Wessenger: You indicated about the whole question of financial viability. I know in your proposal you really didn't deal with any specific recommendations in that regard. Do you see this county of Simcoe restructuring act as interim legislation, something for the interim, and in the long run do you see an eventual further restructuring down the road?

Mrs Laking: If you were asking me to be a member of the provincial government and make some of the tough decisions that will need to be made by the government, I would say that before you got into this structure you probably should have made some of those tough fiscal decisions that had to do with policing, for instance, and every member of every community paying the same cost towards policing, or at least paying for the same percentage of their own policing.

If that sort of fiscal outfall had been addressed first, then I think a lot of the municipalities you're dealing with today might indeed have realized that there was an advantage to larger municipalities. I think those outcomes will be evident to the municipalities in Simcoe county in the coming years and they indeed may be asking for more economical units.

Mr Wessenger: Just one further question. Would you indicate to the committee, at the present time you do have how much land available, do you feel, for how many years for future, for instance, industrial expansion?

Mrs Laking: How fast is the province going to help us grow within our industrial expansion policy? A very tough question. We're not cramped at the moment, but I think long-term planning requires more than we probably have. I'm not talking about expansion here, other than some minor adjustments.

Mr Eddy: I want to thank your worship for making this interesting presentation. I'm particularly interested in the creation of a fringe management area located

within an adjacent municipality and noting the city council's opposition to joint planning boards.

Joint planning boards were a very common body and they were dissolved by the members themselves in many cases because they weren't working. They were time consuming and you have to realize that the municipality in which the land is situated had the final say anyway, and our planning process allows for an adjacent municipality. This is a very interesting concept and you see it working in the case of an adjacent municipality even where there's some considerable activity or proposals for planning changes. Would you comment on that?

Mrs Laking: I was part of one of those joint planning committees in the 1970s. I well understood the frustrations that we felt, because you might be able to put planning teeth into something that would work better than it did at that time, but yes, our Innisfil agreement has worked well. We think it's a good model.

Mr Jim Wilson: Thank you, Mayor Laking, for appearing before the committee. I know the city wasn't given a great deal of notice and the hearings have kind of come upon us all rather quickly, so I appreciate you taking the time on such short notice to appear.

I'm interested—on page 3 of your presentation you say in the middle of that page: "The decision-making process which culminated with the introduction of Bill 51 focused on the achievement of consensus rather than the original, more broadly based purpose of the county study." Do you have any particular examples in mind where consensus was achieved, rather than the purpose of the study?

Mrs Laking: I think the broader purpose that was originally envisioned was part of the reason the city of Barrie and the city of Orillia were asked to join into the study. When we were asked to leave, the following procedure seemed to be a procedure that could get the majority of county council. I would challenge you that some lines were drawn in order to try to appease certain interests and keep certain support. If I were asked to draw those lines, I could give you a different version.

Mr Jim Wilson: I appreciate your frankness, because I contended in my opening remarks that some of the lines are a little suspicious if one of the objectives, as you've said in your brief, of the bill was to come up with self-sufficient units. I need only look at some of the amalgamations taking place in my own riding, like Adjala and Tosorontio, and it throws out any theory the government may have presented in selling this bill or this process to the public. So I appreciate your comments there.

I perhaps disagree to a certain extent with some of your oral comments, though, in that I think you come to this presentation with the premise that larger units are

more economical units and you talked about perhaps in the future the county will see the wisdom of more economical units. Do you want to just expand on that? I've done a search of the literature. If you look at Oxford or even look at south Simcoe or if you look at any of the regional governments that have been set up in the past, we don't find actually less expensive government; we find over the long run more expensive government.

Mrs Laking: You really want me to answer that? Because I'm going to be very frank. I think that if we have very large enough municipal units we don't need a province, so we've got rid of one level of government very quickly.

Mr Jim Wilson: Again, you're very frank. I notice for the record, your worship, that you're skipping that level altogether.

Mrs Laking: I think a strong federal government and strong municipalities could do a good job, Jim.

Mr Jim Wilson: There's my request of Hansard: Speed it up. Ms Laking may need these remarks for her campaign.

I do appreciate your frankness, Janice.

The Chair: With that, we'll pass to Mr McLean.

Mr McLean: Mayor Laking, I have a couple of questions. You talk about communities of interest and you talk about the establishment of boundaries that recognize communities of interest will assist in focusing growth in urban areas and would help to reduce the rural fringe development. Then on page 4 you say, "Land use in the fringe management area would be restricted to agriculture." Does the city of Barrie plan in the immediate future or in the future to expand the boundaries northward?

Mrs Laking: That's going to be somebody's decision some time in the future. We have no request for that at the moment. We just think that because we have in the past—and I'll have to be historical on it—expanded boundaries over areas that have been developed in ways that we would not necessarily develop them, and without services that the residents then demand and are a cost to the existing residents of the municipality, that we would both be better served if that was not happening.

Mr McLean: Your boundary to the north, of course, the Hickling property and the Wismer property—there has been a request by them to be included in the boundaries when we were going through this process. You would see nothing wrong with that happening if that's a minor boundary adjustment?

Mrs Laking: I don't think my council would have any problem. That particular one, I think, can be serviced by gravity and probably makes some sense in terms of a township road that is now entering into the city and we have had some discussion with the town-

ship on, but it's not within my purview to make that request.

Mr McLean: But you would be happy if it happened. Thank you.

Mr Sean G. Conway (Renfrew North): Your worship, I appreciate your submission today. Just a couple of questions. The first arises from your oral submission. I gather that from your point of view the city of Barrie looked with some fondness on the Barrie annexation of some years ago as perhaps a preferred model for sorting out interjurisdictional questions.

Mrs Laking: I think you put words into my mouth that I didn't in terms of a fondness. The acrimony involved with that particular annexation, both on the part of Innisfil and on the part of Vespra, is still very active. So I look at it with no fondness. However, the result in terms of the land that was preserved for future growth if needed within the township of Innisfil has worked well. I think it's been easy for Innisfil too, because it's been able to say to major developers that came into that area, "Go away." That has let them operate on some focal areas that they wanted to concentrate on.

1510

Mr Conway: Section 34 of the bill before the committee has, I think, attracted some interest. The section—I'm sure you're familiar with it—provides that before January 1, 2001, the minister may undertake a review of the municipal boundaries of the city of Barrie and of the city of Orillia.

I am quite new to this particular debate, though I know a little bit about Simcoe county. One gets the sense that there are some, perhaps in the non-Barrie and Orillia parts of Simcoe county, who imagine that the two aforementioned urban communities might have imperial ambitions.

It has been suggested here today that perhaps one of the most useful things the committee could do to show, if nothing else, goodwill is simply to amend the bill by striking out that provision of the bill. Would it concern the municipal corporation of the city of Barrie if Bill 51 were to be amended in a way to eliminate section 34?

Mrs Laking: Sean, I guess the reality of the world is that the minister could amend it next year or in 1996 or in 2049. So I think the wording probably is semantic in any case.

Mr Conway: So it wouldn't concern—

Mrs Laking: You must realize that I'm speaking as Janice Laking rather than as a consensus of my council at the moment, but it's not my bill anyway.

Mr Conway: But would I be right, then, in taking from that that the city wouldn't be particularly upset if that section were to be dropped?

Mrs Laking: Sean, we came into the committee, we came into the county restructuring, saying that to really

get into the next century, we should be looking at six municipalities within the county of Simcoe. We came a long way when we agreed maybe six could go to 13, and 13 has now gone to 16.

I think the municipalities themselves are going to have to have a very strong look. If some of those lines remain as they are now, they're going to want to get together. Janice Laking would not have a strong objection to it, because I don't think it means anything.

The Chair: Thank you very much, Mayor Laking and members of council, Mr Lee, for coming before us this afternoon. We appreciate you taking the time.

Mrs Laking: Thank you. On behalf of my council and the members of my committee who are with me, I want to say thank you to you people. I'm sure you've got better things to do on August afternoons too and I'm impressed with the number of members who are with you today. Mr Beer, thank you.

The Chair: Thank you.

TOWNSHIP OF SPRINGWATER

The Chair: I'd next call on the reeve of the township of Springwater, Ms Helen Coutts. If she would be good enough to come forward. While Ms Coutts is coming forward to take her seat, could I just note for members, there are two presentations to be added at the end today, each of 15 minutes: Mr C.R. Groves at 4:45 and Mr Alan Taylor at 5 o'clock.

Ms Coutts, welcome to the committee. If you would be good enough to introduce your colleagues and then please proceed with your submission once you're settled. Your submission is being circulated to the members of the committee.

Mrs Helen Coutts: I will pause briefly until those are circulated.

The Chair: We listen well and we're fast readers.

Mrs Coutts: Chairperson and members of the committee, my name is Helen Coutts and I'm currently the reeve of the township of Vespra. As the committee will be aware, the townships of Vespra and Flos and the village of Elmvale will be amalgamating under the legislation you are currently reviewing on January 1, 1994, to become the township of Springwater. The terms of the legislation state that I will be the mayor of that new municipality, and it is in that capacity that I have been requested to address you today on behalf of the township of Springwater. Accompanying me are on my left, Reeve Don Bell of the township of Flos, and on my right, Reeve John Brown of the village of Elmvale.

I would be guilty of misrepresentation if I were to say that the 15 members of the three municipal councils involved in this amalgamation were unanimously and wholeheartedly in support of restructuring at the commencement of this exercise. I'm pleased to be able to inform this committee, however, that after initial

difficulties, the councils of these three municipalities have been able to work together and have succeeded in accomplishing many of the preparatory tasks, not the least of which is the designation of all staff to new positions within the new municipality. Ward boundaries have been established and the manner in which the new municipality is to be organized and housed is well on the way to being resolved. Consequently, the 15 politicians involved in our particular exercise would not be prepared to advocate abandonment of the process, and therefore wish to go on record as supporting the principle of this legislation.

We appreciate amendments that were made to the act which respond to our previous comments, including those to the public utility commission section.

Having said this, I've been requested to raise with you two issues that remain of concern to Springwater.

First, in our original submission on the draft bill, we expressed our extreme concern with regard to sections 5 and 49, which is now section 52, of the proposed legislation. These sections dealt with the dissolution of recreation committees in section 52 and the establishment of each municipal council as the recreation committee.

In our original submission, we indicated that we felt the basic foundation for local recreation in our municipalities has been voluntarism and the undeniable pride which manifests itself in the efficient operating and maintaining of a facility which local people regard as theirs. We indicated that we felt the removal or even severe limitation of that right would not only lead to the withdrawal of local people from involvement in their local facility, but would also create practical difficulties for councils.

It would seem that in response to this and many other submissions which the provincial government received with particular regard to this part of the legislation, a subsection has now been added to section 5 which indicates, "A council deemed to be a board of commission under subsection (1) may exercise the powers under paragraph 58 of section 207 of the Municipal Act."

While this is an addition that we requested, we are by no means convinced that this serves to preserve the voluntarism and pride which we feel is so fundamental to local recreation. We feel there should be clarification of the powers and abilities of the board of management that may be created under section 207, clause 58(e), with particular regard to the financial and other independence that such a board would be entitled to enjoy. If the effect of the additional subsection is not to preserve the relative freedom of the local people to provide for their own recreation, it would be Springwater's position that the amendment is inadequate.

Second, we must join our voice with those of other municipalities surrounding the cities of Barrie and

Orillia in opposing section 34 of the legislation. As far as Springwater is concerned, this provision has been inserted in the legislation to appease the cities. It is respectfully suggested that this provision to allow the minister to undertake a review of municipal boundaries of the cities prior to January 1, 2001, is so fundamental to the municipality to which it relates that it severely undermines the purpose of the restructuring exercise and creates the prospect of further total upheaval for the municipal residents involved within a relatively short period of time.

1520

Not only would it make nonsense of the ward system that each new municipality has created, and make the work and expense invested in developing an organization to service the ratepayers futile, but it would also substantially undermine the financial stability of the rural municipalities surrounding the cities at a time when, as a result of the restructuring next year, that stability has only just been recreated. We respectfully request that this section be deleted from the legislation on the basis that the cities can apply for the necessary legislation at a time when they can adequately and properly show that the need has arisen for further land.

I would respectfully comment that the more cynical of us would see a very definite relationship between sections 33 and 34. Springwater is on record as supporting the concept of joint planning, and on that basis has met and will continue to meet with the city of Barrie. This, however, is in the belief that joint planning is a positive and possibly proactive measure, where two municipalities listen to and give consideration to issues that are relevant to each of them in relation to proposed development. We are not prepared to contemplate simply a freeze on an area of land around the city boundaries as being sufficient to accommodate section 33.

It is respectfully suggested that a freeze as such is not joint planning, but a measure that lends weight to the argument that the establishment of the "joint planning area" is merely a façade which ensures that the land in question is as free as possible of development pending annexation of the same by the city following the minister's review under section 34. However, please be assured that Springwater will continue to work cooperatively with the city of Barrie to address planning issues.

In closing, I have been requested to inform the committee that the three councils comprising the new township of Springwater wish this legislation to proceed in order that restructuring can occur on January 1, 1994. While the advantages and disadvantages are not, we are sure, capable of being fully appreciated as yet, we know this is a time of change and we are ready to meet the challenges of the future as a unified municipality.

I would like to express my sincere appreciation to the

committee for giving me an opportunity to make this presentation, I would like to ask if Reeve Bell and Reeve Brown may be given an opportunity to add anything at this moment and then we would be pleased to answer any questions you wish to ask.

The Chair: Fine. Gentlemen?

Mr Don Bell: Thank you, madam, and thank you, Mr Chairman. I'd just like to say, on behalf of the township of Flos council, that our council has endorsed this presentation. We have worked very cooperatively with the township of Vespra and the village of Elmvale in proceeding with the restructuring, we are also very strong on joint planning and we feel that Springwater can address issues that have been raised by the two previous presenters under our concept of joint planning.

Mr John Brown: I'd just like to welcome the opportunity to say a few words. Elmvale may be a little different than the other two municipalities we are amalgamating with. We happen to be a small community with all the urban utilities that every large city has. It hasn't been an easy amalgamation for us because we're dealing with agricultural versus urban. I can't say we've endorsed the situation totally, but we've also gone along with it at the same time. We certainly have not held back in any participating way of trying to make Springwater a better place to live.

I know that my council has had a lot of second thoughts about it, because we sit in a position where we have our own sewers, we have our own water and we're going to be kind of left out in limbo with the user-pay situation, which adds a fair debt to us. But we are willing at this point to try to make this thing work.

I would just like to re-emphasize what Reeve Coutts has said concerning the committee aspect on recreation. I think recreation was started by the local interest way back, many years ago, and to take the recreation out of the hands of the people who are really using the recreation would be a cardinal sin. So I really feel, as we said in our presentation, that is quite an important factor, otherwise it won't work.

Thank you very much for the opportunity to speak.

The Chair: Thank you. We'll turn right to questions. Mr Conway?

Mr Conway: Thank you very much, Mr Chairman, and thank you all for a very helpful submission.

Just two questions: I'm very sympathetic to the point you've all made with respect to the dissolution of local recreation committees as provided for under section 52 of the bill. From your point of view, Reeve Coutts and colleagues, what specific relief could the committee provide to address that concern?

Mrs Coutts: I would think if there were a provision that under the direction of council there could be local recreation and community centre groups that had some powers, it would solve our problems.

As you may be aware, in certain parts of the province there are little community centres which have continued to function as independent entities under the umbrella of council, even though current legislation may suggest that is unwise. In those places, the roofs get fixed and the septic systems get replaced and the ball diamonds get mowed and groomed because people have that pride, and that's what we're concerned about. If all of a sudden Springwater must own them all, we're going to need a huge parks and recreation department, where in two municipalities we truly have none at the moment and in the other one we have one employee, but we have this whole army of volunteers who keep a lot of recreation programs and facilities working.

Mr Conway: I think that's exactly the point with which I am very familiar and sympathetic.

The second question has to do with the business of your support for the joint planning committees. My colleague Mr Eddy's had to leave to go to the AMO conference. You may have heard him a moment ago. In fact, he's said a couple of times today that from his experience, they have not been very successful. I don't have very much experience in my part of the Ottawa Valley—I represent part of the county of Renfrew—but I just wondered what you felt about the criticisms you've heard today around the difficulties with joint planning councils, many which have been just abandoned because of the reasons cited, and what you might have thought of Mayor Laking's point about a fringe management area concept.

Mrs Coutts: If I could speak to that first, and perhaps my colleagues would like to add something, the joint planning boards were prior to my involvement with the municipal council. I've heard members of the city of Barrie council describe them as little tea parties where they got together and did nothing. That does not seem to serve any purpose whatsoever.

However, neighbours, whether they're municipal neighbours or whether they're just neighbours who live on the same street, tend to have wee disagreements over whose branch of the apple tree that is and who has the right to cut it down, and I think the same thing happens with municipal boundaries, particularly when water runs back and forth and streets cross and traffic and all of those things. It seems to me that joint planning would allow the representatives of the two groups to sit down and talk about those sorts of problems with proposed development before they happen, where now we have the commenting system that happens after the development is pretty well planned, and so we're saying: "Whoa, hold it, you forgot to think that if the ditch came to the end of the municipal boundary, the water's going to go somewhere. Think about our side of it." It's sort of after the fact. I would think joint planning would be proactive and would be much earlier in the process. It would perhaps only come into play when there is a

need, when there is a change in designation envisioned or contemplated. It would just give that extra little opening of the door for the two municipal partners to talk to one another about things.

Just incidentally, I might add that for that same sort of reason, we see a shadow falling in both directions from a municipal boundary. It's hard to determine in advance on which side of the boundary the tree might grow that has the apples and the branch on the wrong side and that I picked and you're mad about or that you picked and I'm mad about.

The Chair: Thank you. Just before moving on to Mr Wilson, the parliamentary assistant with a clarification regarding the recreation committees.

Mr Hayes: I appreciate it, Mr Chair. On your question regarding the recreation committees, I would like Mr Griggs to clarify this, and maybe you can respond if you're not satisfied.

Mr Griggs: I just want to point out that there was draft discussion legislation that was circulated to the municipalities prior to first reading to give the municipalities an opportunity to review the bill and provide comments. This was a comment we received quite strongly, this concern that there wouldn't be provision for the appointing of recreation committees by the municipalities, because what the bill does is it dissolves all existing recreation committees and assigns the new council as the recreation committee for that municipality.

1530

The reason for that, and it's been pointed out in this case, is that you have three separate recreation committees. Obviously, when the new municipality is created, you have to combine those recreation committees. That's what the bill does. On the request of the municipalities, there was a subsection added which states that nothing in the bill stops the municipalities from appointing a committee to deal with recreation matters. So none of the abilities of the councils have changed; all the bill does is combine the existing recreation committees for the new municipalities.

Mr Conway: All right. Can I ask this question, then, because I need a clarification. Now we have these three distinct municipalities; they each have their own recreation committee. That's correct. They are highly volunteer because they're local, rural, small-town communities. Under the provisions of section 52 and other sections of Bill 51, the new policy is that there will be one committee for the new?

Mr Griggs: Not necessarily. What the bill does is it dissolves all the existing committees and then it assigns the new council as the committee. But the council could choose to appoint three separate committees or one committee or whatever it chooses to do. The bill does not infringe on the ability of the council to do that.

Mr Conway: But as a practical matter, in the new larger, consolidated township of Springwater, is that going to work? I don't understand the dynamic of your communities.

Mrs Coutts: Right. I don't see a problem with one recreation committee that serves the whole municipality. I think in all of this the three councils have been working together and anticipate becoming one council next January. Our library boards, and we have two library boards because we have a joint board between two municipalities, are working together and they don't see a problem with next January and one board, and I don't think the recreation committees do.

To me, the other part is all those community centres out there in the three municipalities. That's where the true little volunteer boards are, with the little community centres, working with the arena, working to provide a tennis program, all of those. Those are the ones that concern us.

Mr Griggs: I guess the way the bill was written it was to provide the new municipality with a clean slate so that if it wanted to have one recreation committee or if it wanted to continue several recreation committees, it could do that. But it was to deal with this, as you said, bringing together these functions for the new municipality.

Mrs Coutts: John, you spoke to this. Do you wish to speak?

Mr John Brown: Yes, thanks, Reeve Coutts. My concern is, for instance, in our village of Elmvale we have one committee alone that looks after the ballpark and raises the money, handles all the funds, takes care of all the liabilities and everything. I was led to believe about 18 months ago that this amalgamation was to cut costs. I hope that hasn't changed. It's been a fairly expensive trip so far.

So by taking the volunteer labour out, somebody is going to pay to have that work done. I'm talking about dragging your ball diamonds, I'm talking about reconditioning them every spring, the maintenance of them. We look after the grass cutting and everything from that particular bank account and have been since 1971. If you come along and tell these people that because of amalgamation their services are no longer needed, they'll have about three or four months to think about this, and then when you ask them back, they won't come back.

Mr Griggs: That's not what has to occur. I mean, the legislation will dissolve those committees and then you can say, "You guys have been doing such a great job, why don't you continue for the new municipality?"

Mr John Brown: Then why would you dissolve them?

Mr Griggs: Just to provide for that consolidation. Another municipality may choose to just have one

committee. In your case, you may choose to have several.

The Chair: I think the points have been made here and perhaps there may be some grounds to continue afterwards, but I'm just conscious of time, and there are some other questions.

Mr Jim Wilson: Mr Brown, Ms Coutts and Mr Bell, thank you for appearing before the committee. I think, with respect to recreation, you hit upon one of the surprises of amalgamation down at the south end of the riding. I'll touch on that in a minute.

Currently, do your three municipalities apply separately for recreation grants and receive recreation grants from the province? Because I'll tell you, one of the surprises of amalgamation and one of the reasons it's a form of downloading from the province is that on the map now you will be one municipality at Municipal Affairs and when they're, for instance, in New Tecumseth, treating three arenas, in the past—I remember the recreation director coming to me after amalgamation saying, "We used to get three separate arena grants. We got one this year and we have to decide what arena roof we're going to fix." It was a form of downloading to the municipality. And I said, "Well, that's because, John, you're one municipality now at Municipal Affairs and this is where they save money."

So you ask the question, why dissolve the committees? It's necessary in order to perform the downloading from the province.

Secondly, I do want to ask you, because you talk about voluntarism and you talk about—I assume in that it's fund-raising for the ballpark, for the hockey teams, for all the stuff we do. I'm going to ask anyone who wants to answer it, how do you think fund-raising is going to occur? When I look at the county of Simcoe map and I see that Creemore, Stayner, Sunnidale and Nottawasaga don't even exist as entities on the new map of the county of Simcoe which will go into effect—it simply says Clearview.

Now, I can tell you, having been amalgamated, fund-raising does become a problem. You get people in Beeton who say, "Well, I'm not fund-raising for the hockey team over in Alliston," and you get a recreation department that has to deal with that sort of attitude. I want to tell you, I agree with that sort of attitude and it's one of the reasons I've been opposed to forced restructurings along the way.

Has anyone thought of these comments that I've just made and do you want a chance to rebut them? Mr Brown?

Mr John Brown: Yes, thanks, Mr Wilson. We're about to embark on a similar situation with an arena and we're hoping that—at this point, there's not a lot of action from the provincial government, but we're hoping that there is some down the road because a grant is

going to be totally necessary for this to work, because we're bringing the township of Vespra on track to be involved in an arena that it really has had very little to do with—on the south end, excuse me, not on the north end of Vespra but on the south end. We are concerned about the fund-raising that way because we're going to have to reeducate somehow or another that this is going to no longer be called the Flos-Elmvale Memorial Arena; it's going to be called the Springwater arena, and that's going to take some reeducating.

The plans are being drawn right now for an arena so we're about to embark on that situation. But I don't know how it's going to—this is all new to, I would say, Reeve Bell and me, due to the fact that we've never had to look after a reconstruction of this magnitude. So we're just hoping that we have the blessings of the complete township of Springwater. Otherwise, we'll be knocking on the parliamentary doors. We'll be knocking anyway so, you know us by face now.

Mr Jim Wilson: We'll note, Mr Brown, you've just made a plug for the arena.

The Chair: Mrs Coutts, did you want to comment?

Mrs Coutts: Just to add that I think we have the concern because we want the ability of the small community to keep its name and to keep the name for its community centre and to have that little committee, volunteer committee, that works with that community centre.

I come from the village of Midhurst, which is not a separated anything. It has never been a police village. It's now about 2,000 people. But we're still Midhurst and we maintain a Midhurst community hall with a volunteer group.

Some of the voluntarism disappears as the little village grows, but in my other villages in Vespra it's still very strong. That's why we spoke, because we want to see that continue, because I think they will do the fund-raising for the Anton Mills community centre if they in fact know that the Fun Day money goes to their community centre and they can track that it does and they can put in the cupboards or the new lamp or whatever it is they need.

Mr Jim Wilson: It is a challenge.

The Chair: Reeve Bell, I think, just wanted to comment as well, and then we'll go back to another question.

Mr Bell: I just wanted to comment that we still haven't found out this year, Jim, whether we're going to get our individual municipal grants—the recreation grants—and it doesn't sound as though they're coming.

Mr Jim Wilson: The point is, at least, Don, you're entitled to them. Under this one, you're not.

Mr Bell: I'm not sure we're going to get them, though. As long as that issue is clarified, I think, in the regulations, Mr Griggs, if they can address our issues in

the regulations and let the communities operate the way they have been, I don't think we have too much concern.

Mr Jim Wilson: I just want to go to the crux of why we are here today as a committee discussing the restructuring of Simcoe county, and just to reiterate for you, because the presenters weren't here for my opening remarks, Mr McLean and I have appeared in this chamber on a few occasions and we've been told by county councillors over the past few years that they felt they had a gun to their heads, that they had to go ahead with restructuring given that the south end had been forced restructured under the Liberal government and that if county council didn't go ahead with restructuring, Queen's Park would do it.

1540

I had the opportunity on the record this morning to ask the parliamentary assistant, Mr Hayes, if that was true. He flatly said no, that had the county of Simcoe said, "No, we don't want anything to do with restructuring," this government, coming from the parliamentary assistant, and also, I must add, the previous minister, Dave Cooke, told me this, would not have forced restructuring. You know the view of the Conservative Party, it would not have forced restructuring at this time. Things have changed; we are the party that forced regional government in the past, and we despise it. Frankly, with respect to the two private members' bills I brought forward concerning restructuring, one of which would have prevented municipalities from being restructured against their will, Bernard Grandmaître, the former Liberal Minister of Municipal Affairs, voted in favour of both that resolution and the bill, saying that the policy of his party is changing.

Given that, I also asked the parliamentary assistant, "Where did county council get the idea that they had a gun to their heads?" He said: "I have no idea. It's the first I've heard of it." So given that I've heard that from individuals on county council, I want to give you the opportunity to respond to how we got to this point, given that your local MPPs told you we didn't have a gun to your heads. If it was the bureaucrats at Municipal Affairs, I want that put on the record. If it was something else or if it was the wisdom of Job that told county council it should go ahead and do this, then perhaps we'd better hear about that miracle too.

Mr Bell: I'd be glad to respond to that. I did have the pleasure of serving on the study committee right from its initiation in 1989. The study was county-driven. Some of us didn't like it. It was a majority vote of county council to ask for a county study. There was a vote held almost 10 or 12 times throughout the year in attempts to abandon the process, and the county council sitting around this table here in a majority vote every time asked the study committee to continue to proceed. So it was driven by the county council. Despite what

Mr Wilson may have said, that we had a gun to our heads—

Mr Jim Wilson: No, I heard that specifically from county councillors many, many times over the years, that they're being forced to do it or Queen's Park would do it for them. I don't know where they got that idea.

Mr Bell: I don't know either.

Mr Jim Wilson: And that was the *raison d'être* put out to the residents of my communities for restructuring today.

The Chair: Do you have a comment on that as well?

Mrs Coutts: I think, as Reeve Bell has said, this was a decision by the county, but as one county resident and one person with a county council vote, I would say that I was influenced by the fact that south Simcoe had been restructured. We suddenly had this funny county with these three huge municipalities to the south and the rest as it was. I had two choices, only you people didn't really propose drawing a line across Highway 90 and making two counties out of us. That would have been one answer. Because the south had changed so dramatically, it made sense to make the whole match and therefore to restructure. I don't think that's a gun; I would like to think that was common sense, that after the part had been done and really had been forced, let's face it, that it made sense, and as Reeve Bell said, it was then a democratic decision to proceed.

The Chair: Reeve Bell, did you want to add—

Mr Bell: Just in addition, I think there were only two public meetings held when south Simcoe was restructured by the former government and the county council asked at that time if county council could do a study of the balance of the county to reorganize the rest of the county.

The Chair: Mayor Brown, did you—

Mr John Brown: Thank you. It's Reeve Brown.

The Chair: Sorry.

Mr John Brown: Mayor Brown would be nice, but we're still a small town. That's how I got involved in this.

I kind of have to disagree with my colleagues a bit. I've been on council eight years but I've only been two years as reeve—two fairly hectic years, due to the fact of this. I was always led to believe, being on the outside because I didn't attend county council at the time, that if we didn't do something on our own, we would be told what to do. In other words, you could choose your bed partner now or be told whom you're going to bed with. That's why a lot of research went into this whole thing from our point of view. It may not have been a gun to your head, but you certainly were influenced that you'd better proceed. As Mayor Coutts has said, you took a look to your south and you knew what happened

there—and there were “ifs” and “ands” and there were some arguments and things—so if you could do it in a regimented fashion on your own, you’d be much better off.

Also, with regard to this vote that was taken on county council, we had the pleasure from our former reeve of going over these questions. The questions were put in such a manner that you had to say yes to a certain amount of them, like, “Do you need fire protection?” “Yes.” “Do you like sewage in your backyard?” “No.” It only made sense. You had to answer yes to these. I was given the understanding, and I stand to be corrected because I wasn’t here, that these were all totalled at the end, and when you totalled up the votes, if the percentage was in favour of restructuring—that’s because of all the yes votes—then restructuring went through.

That’s all I can tell you, because that’s what I was told. I remember the day they went through all the voting; it was a long day. I think if anybody saw those questions, there were some that were—the way we looked at it from our municipality in Elmvale, a lot of the ideas were terrific, but you didn’t have to amalgamate to do them.

The Chair: Thank you. We’re tight for time. We have time for only one more question.

Mr Hayes: Of course, you’re all county councillors. My understanding of what has happened here is that all these amendments or recommendations were brought forward to county council and county council—correct me if I’m wrong—voted on each recommendation individually and then voted on the proposal as a whole. Is that correct?

Mr Bell: Yes, that’s correct.

Mr McLean: Mr Chairman, I never got—

Mr Wessinger: I didn’t get—

The Chair: I’m sorry, but the Chair has to deal with the time we have. We have had the full time. I’ll allow Reeve Brown a final comment. Those who weren’t able to ask questions, I will make every endeavour to catch you on the next round.

Mr John Brown: I’m not sure, but I think at the time that vote was taken they used a multiple vote. I’m from Elmvale and I get one vote that counts for one. If you’re from another municipality, it can count for three. Theoretically, I could be against it and it really doesn’t matter; I have to take the three votes to equalize it.

Mr McLean: Mr Chairman, on a five-second point of order: I just want to make it abundantly clear that there are many county councillors and ex-councillors who told me that if they didn’t do it the province would. I just want to make that abundantly clear.

The Chair: Thank you very much for coming this afternoon, for your written presentation and also for answering our questions.

ROBERT CARSON

The Chair: I would now call on Mr Robert Carson, if he would be good enough to come forward. Mr Carson, we have a copy of your submission. Once you’ve had a chance to get settled, please go ahead with your remarks.

Mr Robert Carson: Thank you. I was almost more interested in listening to the answers to Mr Wilson’s question and the questions related to how did we get to this point.

You’ll see from my presentation that I’m a student of restructuring, and that’s why the brief is in front of you today. I’ve had an opportunity over the last couple of years to sit in on county council meetings and watch this process from afar. The rest of my association with the process has been through a master’s project which is related to a program that Mr Conway is very familiar with at Queen’s.

This is quite frankly a proposal or submission which I make to you knowing full well that this restructuring process has moved far along and that we are only about three and a half months away from the planned date for implementation. I’ve also had the chance to listen today to the discussions related to all the technical matters that are in process in order to put the restructuring in place. So it may seem somewhat a moot point to come forward now and say, why this restructuring?

The answer to that is that as a student of public administration I’m looking at the prospect of using this restructuring as a model for future county restructurings. You will know from your research that this is probably the only restructuring in the 20 years of the program which has been initiated by a local council. The questions you asked a moment ago are particularly poignant in that regard, because if it is the only one and we’re not quite sure how we got to this point, then I’m a little concerned about the process.

1550

If I may, the comments I’m about to make are just briefly to suggest that I have two concerns related to the bill as it stands now.

The proposed restructuring of Simcoe county attempts to solve problems which, from my perspective, look backward rather than forward. They try to address problems of 1989 rather than 1999 and are looking at solutions which are in the context of annexation and amalgamation rather than at an overview of local government that would position the county for some effective local government in the next century.

In terms of different agendas for local government reform, this restructuring process may be characterized as seeing a county which has selected an amalgam of the past and the present rather than taking a more quantum leap towards a desirable state of affairs in effective local government. By accepting the recommen-

dations of the county, the province has really failed to demonstrate, in my view, to other counties what vision it may have of the appropriate structural, functional and financial changes which will be required for local government in Ontario for the 21st century.

I have two specific concerns with Bill 51 as the final phase of what has been a lengthy process. First, the decision to go forward with county restructuring without including the separated cities of Barrie and Orillia is contrary to the approach that's been taken by previous governments in the regionalization process—I know not everyone's a fan of that—that occurred between 1953 and 1973. It also is contrary to the approach taken with the other county restructurings, the Oxford county one in the early 1970s and the Sarnia-Lambton restructuring which occurred in 1989. It retains the county government as the representative of only 70% of the residents of the geographic county and really begs the question as to whether such a government can adequately address the issues of the next decade for Simcoe county.

Except for the status quo option, all the options in the 1990 What If... report prepared by the study committee included the cities within the restructured county. The decision to excuse the city representatives from the study committee in January 1991 and the subsequent failure of the joint consultation committee in the spring of 1992 really made the study committee's, and subsequently the council's, recommendations for restructuring incomplete.

Sections 33 and 34—and there was some discussion about the fate of those two sections earlier—of the bill demonstrate the extent to which the current proposal is really an interim proposal without a reorganization that includes probably 85,000 people within this county.

Second, I'm concerned that there are still too many small municipalities in the restructured county. The process of county restructuring in Simcoe has demonstrated the resistance to change by local politicians and citizens. The same resistance characterized the era of regionalization in Ontario. It may be argued that the recommendations of the final report—namely, the decision to reorganize the county into 16 municipalities—are the result of an effort to reach a political consensus on a process of county reorganization. I would like to say that I did not read the Barrie submission before I wrote this.

It is my view that the urban-centred, six-municipality option of the What If... report was a preferred structure for a new Simcoe county. That model reunited the two cities with the rest of the county and proposed local government units that were a mix of urban and rural areas, that met the requirements of the principles formulated in the provincial guidelines titled *Toward an Ideal County* and that were capable of meeting the complex challenges required for planning, the environment and sustainable development within the municipal-

ities over the next decade.

Again, the decision to amalgamate the county's municipalities into 16 units solves last decade's problems. It's more an amalgamation than a restructuring. The result's a political one and one which I've had a chance to watch debated here in county council over the last couple of years. It's not necessarily one that's based upon criteria for effective local government.

This is a piece of legislation which, without being overly dramatic, could be a milestone in local government within the province of Ontario. County government is 150 years old. Within that century and a half there was scarcely any change in the role of county government for over 110 years, until Metropolitan Toronto was reorganized. In the next 20 years, Ontario's regionalization process was really a grafting of the traditional county system on to certain urban settings within the province. Briefly put, the opportunity for change does not occur often.

The county restructuring process has produced numerous studies but, with the exception of this one country, little change in terms of new forms of local government. There have been two counties restructured in the 20 years of the program, but Oxford was really a defensive response to regionalization and Lambton was a comprehensive solution to amalgamation and annexation battles within that area, much like the 1990 south Simcoe amalgamations.

The Simcoe county case is the first initiative from a county council that has moved through the study stage to a proposed restructuring. In my view, the province has a responsibility to assume leadership at this point where there is a degree of local consensus on a reorganization and there is an opportunity for change. The province needs to demonstrate its policy vision of local government for Simcoe county and, from the perspective of all those counties which are conducting studies or have conducted studies over the last 12 years, a model for restructuring. Ontario needs more viable local government, and from my perspective that means more effective county government. The province must provide some direction. Unfortunately, from my view, Bill 51 is a mixed message and would be an interim measure.

The Chair: Thank you very much for your presentation. We are a bit tight, but there are some questions, so I am going to allow one question from each caucus, beginning with Mr Wilson.

Mr Jim Wilson: Thank you, Mr Chairman. That's a challenge in itself.

Mr Carson, thank you very much for your presentation. I understand your point that perhaps Bill 51 doesn't go far enough and you preferred the six-municipality option. I do want to just ask you then, since I get one question, what's wrong with our current system of municipal government? I keep hearing from people out

there that we need a more viable system of government and yet, when I visit my local municipalities, which run them as if they were using their own money and have small, efficient units, I find very little wrong and I find indeed that those smaller units are actually quite viable in providing the services people want at a reasonable cost. So tell me I'm wrong.

Mr Carson: If I come up with a good definition of "viable" I could probably make a lot of money as a consultant in municipal affairs. No, what I'm concerned about, Mr Wilson, is that there are, or were, 859 municipalities within the province of Ontario. Most of those serve populations that are under 2,000. You end up with a structure for each one of those little municipalities that somewhat begs the question of whether Prince Edward Island really deserves to be a province.

But you have small municipalities each of which each has to have the structure and the municipal responsibility of the city of North York, with a population of 300,000 people or more. There is a duplication of effort that I believe we can no longer afford. I'm looking at reorganizing that to somehow strike the balance between responsive and representative government on the one hand and cost-effective government on the other. Bigger may not be better, but I'm afraid that the complexities of municipal government in the 1990s in the area of environmental planning and sustainable development questions will leave us with have and have-not municipalities if we don't form units which are capable of dealing with those kinds of issues.

It may beg the question, but in the south Simcoe study I believe that the study of those eight municipalities demonstrated that somehow they were stepping on each other's toes or their own little jurisdictions didn't permit them to look at a bigger question, and so you ended up with the need for some very significant, sophisticated responses to some very real problems.

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Mr Jim Wilson: As a supplementary, do you then, in your opinion, have to restructure a whole county, as this bill does? Because you said in your remarks that it's more of an amalgamation. To achieve the goals of good planning and sustainable development, and indeed some economic goals, do you have to restructure as envisioned in Bill 51?

Mr Carson: No, you could come up with a joint approach to special boards that dealt with it on a functional basis, combine different municipalities to work through those boards, but you're creating another layer of government once again. We have school boards and we have library boards and we probably have joint recreational facilities and the management of those.

There could be a functional organization which wouldn't need this geographic reorganization or territorial organization, and maybe the county would have a

role to play in terms of monitoring or setting up those joint service boards. But theoretically, anyway, I don't have the view that you must have a bigger geographic territory. I do have the view that functionally—and I'm thinking in the environmental area of watersheds and conservation authorities and the way in which they spread across municipal boundaries and even county boundaries and have a functional authority but then run into interference when they have to deal with local municipalities that may have planning functions and desires that are contrary to theirs.

So I don't think it's necessary, but I'm looking to avoid duplication somehow and at the same time develop a sophistication and an ability to deal with some very complex issues where if municipalities don't take over the ability to deal with those things, the province may or could step in. Then you lose further contact at the local level.

Mr Wessenger: Thank you for your presentation, Bob. As I was listening to you, I sort of was thinking about my early days of thinking of myself as somewhat of an academic in this area. I think the basic problem, if we look in the past, is we've had restructured government in Ontario in the past on sort of the regionalization model, which I think we'd suggest is basically a failure because of creating another tier of government and having two tiers which have high levels of organization and bureaucracy. That certainly isn't a very efficient system.

But the question is, you have to balance that and the concept of local communities or local groups developing their own structures—balance those against an "efficient, viable structure." Which way do you think the balance should be? Do you think the balance should be towards having a more viable or sensible structure; in other words, elimination of duplication? For instance, maybe we should do away with county government and—we're talking theory here—have stronger local municipalities.

Mr Carson: To be blunt, the county government has assumed those roles for a wider area traditionally because local municipalities couldn't pick up or did not have an interest in picking up the cost of particular programs or savings. The planning function of Simcoe county may be a perfect example. Would you have needed a county planning department if you had effective local municipalities that had planning in place that was workable, or is the need for a county planning department really a grade on the ability of the local municipalities to come up with a planning function for the 1990s?

Now, I can give you the example of the region of York, which went regional and still hasn't got an official plan at the regional level after 20 years. So I'm not telling you the county's the answer, but just in short, the county may in fact have picked up certain

services. Waste management's a new example. Simcoe county was the first one to pass a bylaw under the new waste management provision whereby it would assume certain municipal waste management. I don't think Wasaga Beach liked the outcome of that, and there's been a court case as a result, but there may very well be a case that the province passed that legislation because it didn't perceive that local municipalities were doing the right thing, or the necessary one. So what's the answer to your question?

Mr Wessinger: Yes, what's the answer to my question?

Mr Carson: The answer to the question is a process one. I think Simcoe county needs to be more centralist than it is now. Where the balance is, I'm not quite sure.

There are alternative approaches in terms of the special-purpose bodies that could be created in order to, on a functional basis perhaps, pick those things up without eliminating local municipalities. I'm not quite sure which is—

Mr Wessinger: Could I just follow that with one last question? Should the province reconsider—

The Chair: Mr Wessinger, sorry. We still have one more question. I've allowed a little leeway here just because I think we've been getting into some interesting areas. Mr Conway, final question.

Mr Conway: I'll maybe pick up on something that Paul was saying by just asking a general question with a little bit of a preamble. I'm sorry, Mr Chairman; I won't be too long. But what Simcoe county needs from a sort of technocratic, planning point of view, where I'm probably quite disposed to agree with a lot of what you think and some of what you've said, is one thing. But what Simcoe county, I suspect, is prepared to accept is a rather different thing.

Mr Carson: Or can afford.

Mr Conway: Or can afford.

I'm not an academic. I am a practising politician who's spent 18 years in this business. And today I drove up here. I thought it was interesting: I cut right through Metropolitan Toronto at midday, and the worst traffic jam I encountered was Bayfield Avenue coming in here. I thought that was interesting. Now, it may have been idiosyncratic, but—

Mr Carson: No, I can—

Mr Conway: I've often driven Bayfield Avenue, too. I want you to know, and my sense is that it is an extremely industrious thoroughfare. But it was busier today at 1 o'clock than the Allen Expressway, Highway 400 northbound, even with the construction, Eglinton, Bloor. So I have a sense that there are some things here in Simcoe county that are probably in need of some attention.

Now, I come from Renfrew. I think we're the largest

county, maybe. If we're not bigger than Simcoe, we're almost—

Mr Carson: Simcoe's the largest.

Mr Conway: We've got 36 municipalities. We look at Simcoe and we think it's big, but we think it's enormously sophisticated and very urban, because half of our municipalities have fewer than 1,000 people. But I look at this and I say to myself—and I've been around. Boy, I remember the John Whites and the Darcy McKeoughs. I don't mean to be political, because we've all had them. I mean, Michael Pitfield and Pierre Trudeau had a vision. The only problem with the vision was that it just sounded a hell of a lot better than it felt, and it didn't deliver a lot of what it promised. So we have got, as a practical matter now, a lot of citizens who are from Missouri, who are really sceptical when silver-haired politicians and silver-haired academics—silver-tongued politicians and silver-haired academics—come with the promise of a better tomorrow. They just remember the people who offered the same with the divisional school boards and the this and the that.

As a number of people have said, the member from Muskoka and some of my friends from the area who know this region a lot better than I do, people just have a sense of, you know, it was not all bad but it sure as hell wasn't as good as they said it was going to be. So help me, as a practical matter, in dealing with the citizen who is increasingly disaffiliated from all of the structures out there and increasingly disinclined to believe a lot of this informed wisdom.

Mr Carson: I'm not pretending I have any informed wisdom, but I also appreciate your preambles. They—never mind; I'll leave it at that.

But there is a logic that I think—I can't remember the example you've used in the past about your constituents in Renfrew, but you have two people on a farm in Renfrew—

Mr Conway: Harry and Mildred.

Mr Carson: Harry and Mildred. Thank you. I'm not surprised that you would have asked this question, remembering Harry and Mildred's example.

See, the logic of regionalization, back in the late 1960s and early 1970s, was very attractive if you were a politician or an academic. But when you started to draw lines on the ground and started to take people's policemen off the street and put in a regional force, there was a political backlash that drove Bill Davis into minority governments in 1975 and 1978, and I don't think he got back a majority until 1981. But it gave a lesson to everyone, I think, except academics, that notwithstanding the logic of bigger government, there was something wrong about all that.

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The attributes I would look to would be what has been affectionately known as disentanglement in this

province, but really needs to be relabelled "rational entanglement," I think: the need to bring together effective units of government, and they could be Matchedash township with 500 people in it, and that council. But there is a need to identify what's effective and what services that particular locale, and then work out the relationship between the higher levels of government. But the viability is very complex in terms of deciding what's going to work best. It may be that my dream to have a model for county government for Ontario is going to be ad hoc, that each county is going to have to work out its own reorganization, and that may be the last two pages of this 60-page paper. But it is very difficult to try and get down to the practical level in a hypothetical model.

The Chair: I'm sorry. I'm going to have to close off, and Harry and Mildred may not get the full answer at this point, but I do want to thank you very much for coming on behalf of the committee. You have raised, I think, some broader issues that we need to think about.

Mr Carson: Thank you, Mr Chairman. I appreciate that.

FEDERATION OF TINY TOWNSHIP SHORELINE ASSOCIATIONS

The Chair: If I might, then, call on Mr Jack Ellis of the Federation of Tiny Township Shoreline Associations, if he would be good enough to come forward. Mr Ellis, we have all received copies of your submission. Once you've had a chance to get comfortable, please go ahead. And I just remind members that following this presentation, we have three others. Thank you. Please go ahead, and welcome to the committee.

Mr Jack B. Ellis: Thank you very much, Mr Chairman. I'd certainly like to preface my remarks today by saying how glad I am to be here and with a word of very sincere appreciation to the committee for coming to Simcoe county. It's a very golden time of the year and everybody wants to be somewhere else, but we appreciate that you're here to hear the views of those most directly affected by the bill; namely, the taxpayers of all the municipalities in northern Simcoe county.

Bill 51, in our view, is of crucial importance to the future of the county and, as has been pointed out in the recent discussion, no doubt to the future of other counties in Ontario that may be the subject of similar restructuring bills in future.

There's no finer place, in my opinion, to spend a few days in August than here in Simcoe county. We certainly do appreciate that you, Mr Beer, and the other members and the staff, of course, of your committee have taken these few days away. I'm certainly reminded of the time, Mr Beer—it was a Sunday, I believe, back in June a few years ago—when you came to the Potageville Park pavilion to open the place down in King township where, at the time, I was on the board down there. In return for that, I will certainly do my best to

give you some solid information as well as to express what I think are the sincere and heartfelt views of our membership.

Now, there's a little section that follows on who we are. Perhaps I will just skip it. I suppose in the light of Mr Conway's remark, I might also remark that we're from Missouri.

We're really from Tiny township. There are in the order of 7,500 seasonal households in Tiny township, representing about 18,000 to 19,000 people. When you add in the 7,500 or so residents who live permanently in the township, you have a population total of 24,000 to 25,000 people. It's interesting to note that that makes Tiny township the largest municipality that will be a member of the county of Simcoe in future. It will outpoint Innisfil in that regard. It would be just about even with Orillia if Orillia were in, and would be about half the size of Barrie if Barrie were in, from a population point of view.

If I go on too long and ramble, I hope I will go directly rather than around in circles, but it comes by me naturally, because my normal occupation is as a professor at York University in environmental studies.

The second section of the brief gives a little recapitulation of how the federation has been involved in restructuring. It was early in 1990 that we first heard about the process and that a report was to be forthcoming in the middle of the year. In talking both to our member associations, and as our member associations had meetings and other gatherings with their members, the interest rose and the concern deepened with what was coming out.

The very first concern we had was that there was literally a 12-day period allowed from the appearance of the interim report, called What If..., for the submission of input from the public. We pointed that out fairly firmly, and also that as far as we could tell, there were very laudable principles put forward in the report. However, after our searching, to our chagrin we didn't find them embodied in the recommendations, particularly as they applied to Tiny township.

Later in August, we made a delegation to Tiny township council, asking them to go on record as opposed to the process at that stage, and we made an initial presentation to the county. One thing that was, I think, of interest to the study committee was that we showed where tax increases had been coming from, particularly in the more recent years. As it turns out, we didn't have data from every single municipality in the county, but certainly from Tiny, and from talking to people in citizens' groups in other municipalities, they were finding that the municipal component of their tax increase was, generally speaking, in the years from 1988 to the early 1990s, being kept under the rate of inflation.

The county government purposes levy had gone up at about triple the rate of inflation and the other county institution, the school boards, namely, had gone up in their levy at about four times the rate of inflation. Mind you, it happens that in Tiny township, some three quarters of the taxes that are collected go straight to the school boards.

It's very interesting, parenthetically, to remark that in Barrie, which is not under the Simcoe county school board, the school board there has been able in fact to contain its rate of increase very much more considerably. Down on the rest of the page, it indicates where we were at various times in getting our input out to the various people, including the wardens of the county and the ministers of the day.

In addition to the various points that we made directly to the ministers and to the various other people, there were a number of our member associations, a number of individuals within them, who made submissions, presentations and letters on the process. I feel it's fair to sum up in saying that the seasonal residents of Tiny township felt strongly about restructuring. They're not opposed to review in the future, or to change, but they have to be shown that it's beneficial and that it achieves what it sets out to achieve.

I think they clearly expressed their views through the process. They were pleased, I would say, that the participation process was extended, certainly in the initial phases, in 1990. But frankly, we were very disappointed, even disgusted, that the fundamental objectives of restructuring, which in our view were not achieved in the interim or the final reports of the study committee, are also not achieved in the draft or final versions of the bill. When we look at Tiny township, we see that alone among all of the affected municipalities in northern Simcoe county, Tiny got plucked of its tax base like a chicken. It was literally carved up, with the most delicious pieces served to its neighbours. There will be a bit more on that later.

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We then have a number of points to make about general objectives on a county-wide perspective. We feel the whole purpose of restructuring has been achieved neither by Bill 51 nor the process leading up to it.

We look at the four major priorities—environmental concerns crossing municipal boundaries and effects of development—not being effectively addressed by a single municipality. We very much agree that is a significant concern. Bill 51, in our opinion, does nothing to really change this. It was pointed out in the discussion with the last speaker that of all the regional governments this province has had over 20 years, and in one case 40 years, how long have they had an official plan and how effective has it been? The answer is very mixed.

We feel that the province must stay involved, and it has become involved, in environmental protection through planning, particularly through the agricultural lands, the wetlands policies. We feel it should not follow the recommendation of the Sewell commission to devolve more planning power to the municipal level, and to us that would include the county.

The same municipal politicians who are represented and who perhaps are seen by the public as making mistakes are still the ones who will be at county in future and they need, frankly, a provincial level of control and review of their actions.

Furthermore, the biggest single source of development pressure in Simcoe county is the city of Barrie. They wish to grow, and significantly, as the mayor has said. Bill 51 leaves Barrie out. I don't for a moment fault or flaw the city of Barrie for that occurrence. They had very rational, sensible reasons for not participating, from their own point of view. But really, a bill to address the problems of the whole county in my opinion is fatally flawed unless it covers the whole county. A regional government without the core of the region, to us, is really perhaps a donut theory of regional planning, which I'm sure has yet to be properly baked.

Another goal of restructuring was to have a county-wide strategy for sustainable development, whatever that is, protecting the urban and rural character and promoting diversity of lifestyles and communities, although in fact having fewer municipalities reduces the diversity. I guess no one was paying much more than lip service to that. Certainly, I think we can see that to obtain those ends we don't need a restructured county. They can be achieved now.

When we look at the need for stronger municipalities, reducing the pressure on urban areas to acquire assessment and so on, it turns out that the effect on Tiny township, and I would suggest on several other areas of the restructured county, will be exactly the opposite. When Bill 51's boundaries are applied to Tiny, what it does is to effectively strip it of almost its entire commercial assessment base, namely, the shopping malls or marinas, bingo halls and so on, which sound mundane, but they're money-spinners and involve very little in the way of costs to the township.

Already there is talk of, where are we going to put the next industrial park or the next commercial area in Tiny? Bill 51 therefore increases the pressure on the unique rural and recreation resources of Tiny. Tiny is, I believe, not the only place this might occur.

For duplication of services, as far as that goes, we don't need a restructuring bill affecting the entire county to achieve effective cooperation. The mayor of Barrie and the other political representatives who were here explained how specific agreements to address specific problems have worked quite well in the past. We believe that can be done in the future. We don't need to

fire off the cannon to kill the fly on the wall.

The question of a need for equitable representation: The reason why it may be seen as impossible to define an equitable means of representation on county council without restructuring the whole northern part of the county is never explained in any report I've seen. One good thing that is proposed in Bill 51 is for each municipality to have a ward system to allow for equitable representation of taxpayers within each municipality. Yet you will probably learn tomorrow, if not later today, that Tiny township's present council wants to avoid this one sensible provision of the bill and continue with a relatively notorious one-ward system.

It would seem to me that there should be some simpler provision than a whole act restructuring the county to bring a fairer representation of a ward system to municipalities with an appropriately large population base. Why do we need Bill 51 for that one point?

The real problems, I think, lie in the areas of what was not done. It was part of the terms of reference of the study committee that a thorough financial impact analysis and a cost-benefit analysis of the servicing changes, boundaries changes and so on be done, and to this day it hasn't been done. The financial analysis is still, frankly, a joke and I think that Bill 51 enshrines this. It's just making it a pig in a poke.

Frankly, there have been so many motherhood statements made about the bill, how it will improve coordination, improve services, preserve the environment that it seems it would do almost everything except make toast in the morning and make the rainbow appear in the sky, but as taxpayers we have not seen any proof of that. Everyone can see that in fact the county tax escalation is showing the opposite. The county is inefficient.

Surely we have example after example, from existing regionalizations of government in Ontario, existing cases where municipalities have been amalgamated and made larger, that whether the service is better or not, it is not less expensive, it is not more efficient. The proceeding, where necessary, with amalgamations or annexations could go on; agreements would suffice in cases of lesser momentum.

I think the whole approval process and voting in council has been looked at, and I believe Mr Frank Hughes on Wednesday will be able to go into considerable detail. Let it just be said that the voters, by and large throughout the county, certainly in the northern part, were not asked to approve or disapprove restructuring. In the very few cases where they were, one of which was Tiny township, it was rejected and not by a narrow margin, not by one faction or another faction or this group or that group; it was rejected hands down, literally by over 90% of the voters in Tiny.

A number of the specific concerns that focus on Tiny

township are enumerated in the fourth section.

All the priorities that Bill 51 was supposed to achieve, except for a municipal ward system giving more equitable representation of the taxpayers, are already present in Tiny township, and in fact Bill 51 destroys them for Tiny township. Tiny already has a sufficient scale and balance of assessment to be a viable municipality. Bill 51 weakens it.

Tiny includes most of the appropriate natural environmental features within its boundaries, watersheds and so on. Bill 51 does nothing to improve this and it introduces the uncertainty of what the county might do with more power, and we're not impressed with its performance so far.

Tiny can protect these environmental features with the proviso that continued provincial review and approval continues. Bill 51 does nothing for that.

Tiny now does not suffer from duplication of services. It will under Bill 51.

The question of taxes, I think, has to be examined. There is definitely going to be, for seasonal properties in Tiny, what we call a triple whammy of taxation. The effects of taxation will be felt throughout the county and, frankly, all taxpayers will suffer and suffer quite seriously. We've already heard of recreation grants, for instance, being a third of what they were in a particular municipality where they did three into one.

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Some of our members who are accountants or have very high knowledge of financial matters see the potential for cottage taxes in particular to triple with restructuring. This can literally lead to many families losing their cottages; the end of the great Ontario tradition. The triple whammy for Tiny township, the loss of commercial assessment and the resulting need to make up the shortfall, is probably the smallest component of the loss.

The second whammy is the downloading of services from the province to the regional government, as has occurred in all other regions that we know of. Policing is one prominent and relatively costly example that's frequently mentioned.

The third is the pressure to adopt recent market values for assessment. Now, 1990, even 1992, can be seen as peaks, or even freaks, in the real estate market. Especially, shoreline properties had inflated values during those years there. If you drive up and down and see all the signs and ask some of the people who know, they're no longer there. So really there's no benefit at all for Tiny township, only costs, and these costs have never been fully and properly set out.

As I mentioned, over 5,000 voters in the 1991 municipal election said no, they didn't want restructuring; barely 400 said yes. Surely that should count for something.

Our recommendations for the committee—and I appreciate very much that there must be an effort to grapple with the problems of municipal government in the future, in this area as well as in other areas of the province. If Bill 51 is seen as a milestone, then I think it's incumbent on this committee to not let it be enacted until it is such; otherwise, it may well be a millstone.

Frankly, without incorporating the main centres of Barrie and Orillia, there's no point in having a regional Simcoe government being given more power than it has now.

Please, we would recommend, don't have the bill enacted until it covers the whole of the county. Insist that they go back to the drawing-board on this.

The second point is that the financial and cost-benefit analyses that were promised and were required have not been done. We feel this just isn't fair. No one is in a position to say whether the solution of Bill 51 is cost-effective or not. How do we know it will be any more effective? Certainly, it will be less accessible government for the average taxpayer. The history of this county's tax bills suggest it will be more costly and less effective. The history from other areas show it will certainly be more costly, and the effectiveness would be questionable.

We ask that the committee not have the bill enacted until there has been the proper benefit-cost study and the results have been incorporated into amendments to the bill as required.

The third point is that Tiny township has the largest population in the entire Simcoe county, yet it's proposed to continue with the smallest permissible council, five members as we understand. We feel this is just not acceptable. For decades, Tiny councils have been easily dominated by members elected by the 4,800 or so permanent resident electors. They can naturally turn out to the polls in much greater numbers than the 12,000 to 13,000 seasonal resident electors.

Most of the past years this has been of little concern. But in recent years there have been a lot of development pressures building up, particularly to develop at pretty high densities with minimal municipal services, certainly no municipal sewage services, areas of land behind the shore. This fact has led to increasing polarization on council and even, in effect, some victimization of seasonal residents by some members of the council.

We had recently the spectacle of one councillor being quoted in the *Toronto Star* to the effect that the cottagers are bigoted racists who don't like anybody. This turns out to be a person who was quite narrowly elected in a campaign that was characterized by really quite vicious racist attacks on a candidate, a former reeve, who just happened to be Italian.

Under the one-ward system that has prevailed, as I say, from time immemorial in Tiny, even mammoth

efforts to turn out enough seasonal electors to have some equitable and balanced representation elected to the council can fail.

The implementation of a ward system would at least ensure that the electors of the most populous municipality in Simcoe have what all other municipal electors in the province have: the ability to choose someone to represent their neighbourhood and its interests. I think we deserve no less.

We urge you not to enact Bill 51 until it's made law that Tiny township have at least a seven-person council with a ward system representative of seasonal and permanent residents of the township.

On the last page there's a very crude and intentionally conceptual map of what a five-ward system would look like to permit a seven-person council. In other words, wards 2 and 4 on the diagram are shown as inland wards with, respectively, in the south anglophone and francophone populations, 1,500 to 2,000 electors in each. There would be three wards around the 50-mile shoreline which would be adjusted to reflect the appropriate numbers of properties, electors and so on in each one.

I should point out that this is not a seasonal/permanent residents split. There are probably just as many permanent residents living in those three wards shown around the shore as there are in the inland, but nevertheless we feel it's appropriate that this degree of redress of the balance be taken, and we would urge that without it, Bill 51 not go forward.

Sorry for taking so long. I appreciate the opportunity.

The Chair: Thank you very much both for the presentation and also I would just note the attachments that you have included for members of the committee as well. We have several questions.

I wonder just before starting with Mr Waters, could I just make one point of clarification. I believe you mentioned that Barrie was not part of Simcoe county in terms of the education board. I think you'll find, though, that Barrie is, that the county operates in terms of education as one, and for the record, if I can mention that. As Education critic for my party, I'd just note that.

Mr Conway: And Tiny township, it might be added, had a role in the educational and constitutional history of the Dominion of Canada.

The Chair: That's true.

Mr Waters: I represent the town of Midland and the area east of there. You were saying something had to be done about the mall strip, that commercial strip and all of that area, about the sewage problem, and the cost of this. If that didn't go into the town of Midland, how would Tiny or you as a taxpayer within that township—Tiny would have to pay for all of that, because something had to be done one way or the other. I guess my question is that as a taxpayer in Tiny township, would

you have been supportive of shouldering the burden of that environmental cost?

Mr Ellis: No, I very much appreciate your point. If you look at the whole watershed that the malls are located at, it drains into a little lake, which is a problem. There is no feasible way of taking to a treatment plant in Tiny any sewage from these malls. This to me, though, seems, with all due respect, Mr Waters, like a bilateral issue that should've been settled by a bilateral agreement or by a specific boundary change, which could've been done without restructuring the whole shebang.

Clearly at some stage, I understand that Midland is not in a position and that sewage plant and sewer capacity won't permit servicing those malls, but when it does, in due course of this decade or perhaps the next decade, acquire that capacity, surely then would be the time to negotiate to take over the particular areas from Tiny with appropriate compensation.

Mr Waters: With the lifeline studies and some of the work that's going on in Midland, it may not, I don't believe, require basically a new plant or anything. It might require an extension of the sewage trunks that go up into that area, and indeed we might be able to manage the capacity without a major investment. I know that you've been watching this as it goes through. You know that I have concerns about restructuring. I want to make sure that it is fair and, indeed, I've got myself probably into controversy that I don't need to be in all the time with it.

You've raised some other environmental things and I'm curious, because the shoreline is so important to those of us around Georgian Bay, should we not be doing more, such as reinspection, out along the bay? Maybe that's something that we should look at and try to incorporate into the act with a bit more protection of the environment as we're doing Simcoe county restructuring. I wouldn't mind a comment on that.

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Mr Ellis: I would say that I certainly agree with that. There's no question that everything that is in place to protect the environment should remain in place and should be enforced, whether that requires inspection or other types of enforcement. But it seems to me that a question of, say, septic tank inspection just has almost nothing to do with restructuring. We've got that now. There are provisions. As far as I know, they're working well. If they're not, I don't see how restructuring will fix them. Yet I think it will harm a lot of other things.

Mr Conway: One hardly knows where to begin but I want to start by saying I'm inclined to put Professor Ellis and my friends Waters and McLean in a room together and just let them deliberate until they settle this part of the north Simcoe issue. We'll probably check in 25 years from now and see what kind of progress they're making, because there is a lot going on here,

quite obviously.

I am a cottage owner so I have some sympathy for some of what you're saying, though I must say that I gather cottage owners in north Simcoe are a little more aggressive about their expectations in terms of a participatory democracy than they are on my little lake, and that's probably a good thing.

Just two quick things: One, in your recommendations, your first recommendation, which is understandable from an academic point of view, that there really is no point in restructuring Simcoe county without incorporating Barrie and Orillia—is essentially the recommendation. But to be clear, as they would say at York University, we do all understand that that is the third world war. We know that, just so there's no confusion over what that means. Good and virtuous as it may be, it is the third world war, right?

Mr Ellis: If you say so. From what I've heard earlier today and on other occasions from Mayor Laking and so on, I think there are ways around some of the problems. The interesting alternative of sawing the lady in the cabinet in two and calling each half a county might not be so bad after all.

Mr Conway: The second point: I listen to people and I'm very sympathetic to a lot of the argument that's made because, again, my own experience is a small town, rural. But having been in the Legislature for perhaps too long a time, one of the things that I observe in the smaller communities is that there are two issues that are just really explosive in terms of cost, as well as other things, but cost is the thing that sensitizes people most quickly, and waste management and environmental protection in another way. I'm thinking now of water and sewer projects, either new or upgraded for all of the good reasons around environmental protection.

I represent a little community that has 600 people. It's called Killaloe. We had some serious environmental difficulty in that village involving 68 homes and businesses. The bill to clean that up was \$2.8 million. The per-household rehabilitation cost was \$70,000, and of course that bill was paid, I think entirely, by Her Majesty's provincial government.

The difficulty I've had over the years, because I'm very sympathetic to local democracy—and you were talking to Mr Waters about bilateral matters, and, again, I like bilateralism, as long as the bills aren't sent someplace else. Because my experience is that the bills tend to be sent someplace else, and these days the someplace else is broke—real broke—and I don't see it getting much better in the next 5 to 10 years. In fact it might stay the same; it might even get a bit worse.

So my concern is that if we're going to do a lot of the things that have to be done, somebody's got to pay the bill, and the bill, speaking just from my Renfrew experience, tends to be sent elsewhere. I've carried

many of them and sent others to Ottawa, and I just worry now that the banker isn't going take any more of them.

Mr Ellis: If I could comment briefly, certainly you point to a very important issue. There is only one taxpayer. They can only take so much and they can only bear so much, and the question of what specific things should be paid for under what circumstances by which level of government is very important to civil servants and politicians, but ultimately it's the same taxpayer who pays. It seems to me that there are no questions of that nature in the northern part of Simcoe county that aren't bilateral issues, such as Mr Waters quite properly raised, to which Bill 51 is an answer. I just don't see it.

Mr McLean: Mr Ellis, you have one of the better-prepared briefs we have had here with regard to the many figures that you've used within it and the issues that you raised and the financial analysis that you spoke about, which had never, ever been addressed. The questions that you have asked, there are a lot of them that there have never been any answers for yet. I have never seen the answers for them.

Have you ever had replies from the wardens you wrote to? You wrote to Warden Bell, you wrote to Warden Keefe, you wrote to the minister, you wrote to Ed Philip, you wrote to Cooke, you wrote to ministry staff.

Mr Ellis: Yes.

Mr McLean: I see the copies of the letters that you wrote. Are there any copies of letters that you've received?

Mr Ellis: Not with me, no.

Mr McLean: But you have—

Mr Ellis: In a couple of cases, and it's indicated in there, a reply wasn't received.

Mr McLean: Right. Okay.

Mr Ellis: That was from the staff. Politicians all reply.

Mr McLean: Over 5,000 people voted against restructuring, 92% in Tiny township, 95% in Sunnidale township, 85% in Elmvale, 75% in Rama, 91% in Orillia township. Why did the county proceed with restructuring with votes such as this, in your opinion?

Mr Ellis: That is the \$64,000 question, sir. I don't know.

Mr McLean: You have an excellent brief and I appreciate it. Thank you.

Mr Ellis: I would just hesitate to add, if I could, that it's not that there's no financial analysis. If one looks at the final report, page after page, every restructured municipality has a small spread sheet. It's just that that is so much less, in terms of the detail and the meaningful relation to changes in service, as opposed to just changing the boundary that was foreseen in the terms of

reference, that it's really a pale imitation of what a financial analysis should be.

Mr McLean: To the parliamentary assistant: Does the government not have a cost analysis?

Mr Hayes: We're going to explain that in a moment when we get the floor.

The Chair: The parliamentary assistant just has a couple of clarifications to make.

Mr Hayes: Thank you, Mr Chair. I know, Mr Ellis, you have concerns about the ward system and I'd like Mr Griggs here to explain the procedure that may be used in order to deal with that particular issue and also to make some clarifications on some of the issues pertaining to cost and other things, very briefly.

Mr Griggs: First of all, regarding your concerns with respect to a ward system in the township of Tiny, in fact your submission is correct. Originally the county study committee recommended that all the new municipalities establish ward systems. Subsequent to the drafting of the bill and the draft bill that was circulated to the municipalities, Tiny council and Simcoe county council passed resolutions requesting that Tiny be allowed to continue elections at large.

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However, I should point out, and this was indicated in a letter to you from the Minister of Municipal Affairs, that there is a process under subsection 13(3) of the Municipal Act for ratepayers to petition the Ontario Municipal Board to establish wards within any municipality. It's a requirement for 75 electors in a municipality having fewer than 5,000 electors and 150 electors in a municipality having more than 5,000 electors. In the case of your federation, I imagine you wouldn't have any problem getting that number of people together to petition the OMB to establish a ward system in the township.

With regard to the portion of your presentation describing a tripling of taxes for cottage properties in Tiny township, I'd like to speak to that for just a minute. You mentioned that the first portion, which is the loss of commercial assessment and the resulting need to make up that shortfall for Tiny township, was the smallest portion. Then you go on to describe number 2, which is the downloading of servicing, and you use the example of policing.

Tiny township will not be required to provide local policing as part of the restructuring, and in fact we're not creating a regional government here. The whole focus of this was local recommendations, and the county chose to strengthen the local municipalities rather than the county level. So it's not a regional government.

The third one you point out is regarding market value assessment for the county of Simcoe. This is totally unrelated to restructuring. The county requested a study be conducted by the Ministry of Finance. There is no

commitment from the county to implement market value assessment in the county and, as far as I know, the Ministry of Finance is conducting a study based on that, which is independent from the whole restructuring exercise.

Mr Ellis: If I could just reply for a second, certainly on the question of tripling of taxes and what services will eventually end up in whose pocket and so on I don't think we know the answer. It's very reassuring to hear you say that there won't be very much downloading, if any.

With respect to the question of a ward system, your minister made it quite crystal clear to us what the situation was, and why we're here today is because we have been sold down the river by our unrepresentative Tiny township council. You people, unfortunately or fortunately, are the only people who can redress that wrong of depriving the largest municipality with the largest number of electors in this entire county of its right to a ward system. That's one of the main reasons why we're here. It's all very well to note that after the legislation is passed, so many years later a certain number of people can go to the OMB. But frankly, we think you have it in your power and you have the obligation, I would say, to overrule that aberration of a really unrepresentatively elected council, for good reason.

Mr Hayes: But there is a procedure, which was explained to you, and you can do that.

The Chair: I think there's clearly a difference of opinion here, and you have put that forward. I think we have to now consider that, and I regret that we're over time but I want to thank you very much for having come before the committee and in particular for the material you've brought to us.

Mr Ellis: Thank you very much for being so patient.

The Chair: Good luck to Kettleby.

MARJORIE GORDON

The Chair: Our next witness is Mrs Marjorie Gordon, if she would be good enough to come forward. Mrs Gordon, we have a copy of your presentation, so please have a seat, and when you're settled, please go ahead. And welcome to the committee.

Mrs Marjorie Gordon: Thank you for this opportunity of giving my views. It's been interesting listening to other people give their concerns.

The first part of my presentation tells you that I'm speaking only for myself and my husband, Elwood. We were both born in Simcoe county. He lived his whole 82 years in Sunnidale township. I came there in 1935. I haven't figured out whether that was for good or for worse. But in any case I'm here this afternoon and I want to deal with the quality of life.

The first part tells my credentials. It tells about the growth of the council along the ways as we have

noticed it, how the residential development progressed in an orderly fashion, producing an enviable quality of life.

The community centres: Because Sunnidale was long and narrow, according to the boundary changes they whacked off a bit, I think every side, for no rhyme or reason.

People services: I've listed them.

I mentioned too that the community spirit within our township is fantastic. The different things that go on there, affairs that go on there, are headed by volunteers, and all events are family-oriented. You go to any event that's held in the township and you'll find mothers and fathers and their children there, because there's something for everybody.

I want to go on then on page 3. This is not the first time the province has pressured Simcoe county. While I was on the Sunnidale library board, the province wished to change our Simcoe county co-op services to a county library system, offering the usual promises of euphoria. From the minutes of the Simcoe county library co-op annual meeting Saturday, April 27, 1985, we read:

"Moved by Milton McArthur and seconded by John Lackie that the county of Simcoe library board approve, in principle, that an in-house study be conducted by the county library co-op in cooperation with all county municipalities and library boards in an endeavour to improve existing cooperative services."

I remember the time Mr McArthur made the remark, "No system is so good that you can't look at it and maybe make it better," and that's what was done.

We are not against restructuring, but this scenario that has unfolded leaves much to be desired. Daily we are told that the province of Ontario has no money for any extracurricular activities, and so far the committee working hasn't seen any either. There was no consultation by the committee with the municipalities involved. The manner in which the recommendations from the committee were rushed through county council was mind-boggling. The last municipal election showed how the people felt about the planners.

Our recommendation would be for the province to put Bill 51 on the back burner; that Simcoe county council conduct an in-house study, leaving for now the boundaries as they were. Gradually, through discussion with municipalities, come up with a feasible plan.

We want to keep our quality of life without the bitterness which exists over Bill 51.

Thank you for listening to our views.

The Chair: Thank you very much for coming and speaking on behalf of yourself and your husband. We'll begin questioning with Mr Wilson.

Mr Jim Wilson: Thank you very much, Mrs Gordon, for taking the time to bring your concerns to our attention. Certainly, as I travel throughout Sunnidale, I hear it weekly on my way through. I live in Wasaga Beach so I go by Burnfield Wines's house at least two or three times a week. I certainly hear it from the reeve and hear it from the people. I know that in the last municipal election well over 90% of the voters rejected restructuring. That has been ignored by this government.

I want to ask you a very personal question, given that you talk about the community spirit. I'm well aware of the activities at the Brentwood Hall, for example, where I've attended on many occasions, and the other community centres. When you look at the map of the county of Simcoe, all it says where Sunnidale township used to be and where Creemore and Stayner and Nottawasaga township used to be is Clearview. It doesn't even say "Sunnidale" any more.

Mrs Gordon: I know it doesn't, but we've known—

Mr Jim Wilson: How does that make you feel when you see Sunnidale isn't even on the county map any more?

Mrs Gordon: I don't feel very happy with it because it's been there ever since I went to public school. In fact, I was taught and tested on the county of Simcoe: Tiny, Tay, Flos, and all the railways, CN, CP, and I was supposed to be able to mark those on a map.

Mr Jim Wilson: Do you think the people of Sunnidale have had an opportunity to understand what restructuring is, or has it been explained well enough?

Mrs Gordon: I think they have by their own local council. It has been explained. But then people from the surrounding municipalities are asking us questions; they don't seem to know.

Mr Jim Wilson: You talked about library boards and attempts in the past, I gather, to amalgamate some library boards. In this case, Sunnidale township's library board is dissolved and there will be a new library board for Clearview. Do you have any thoughts on that? Have you been on any—I imagine they're having preliminary meetings now.

Mrs Gordon: Oh, yes. We wouldn't be happy with losing our library. This community spirit works into that. We have not a fancy library as Creemore had and Stayner had with their debt. You see, ours is paid for. Through the cooperative system within the county, we are able to get any service just the same as though we walked into the Stayner library or the Creemore library.

Mr Jim Wilson: And you pay a levy to the county for that service.

Mrs Gordon: Yes, we do.

Mr Jim Wilson: Because one of the arguments that's been made, and it's made at county council although not very publicly but it's certainly a behind-

the-scenes argument, is that townships like Sunnidale don't pay their way. In fact, we saw in the opening remarks today from the government that there's a problem there, or a perceived problem, that some of the smaller townships don't pay for the full cost of services; for example, if you were using the arena in Angus down the road.

My view has been, if that's a problem, then just tell Sunnidale and some of the other townships to pay more towards the cost of services that they're using in other municipalities. You don't have to restructure and wipe it off the map if you feel they're not paying enough. Do you have any thoughts on that?

Mrs Gordon: I feel that the library has grown within the last number of years and people are using it, very much so, and I think they would be perhaps quite willing to. If everybody else in the same situation wished to pay more for the service, I expect that it would be settled, or the money raised somewhere.

The Chair: I apologize, I'm afraid we're tight for time and still have a couple of other presentations so I'm going to have to interrupt. But again, Mrs Gordon, we appreciate very much your taking the time to come before the committee and giving us your thoughts. Thank you.

C.R. GROVES

The Chair: If I could call on Mr C.R. Groves. Mr Groves is here, and while Mr Groves comes to the table, members have been given a copy of his letter. Mr Groves, welcome to the committee. I know you've been sitting watching the proceedings through the afternoon and we appreciate the fact that you've come. Once you're settled, please go ahead.

Mr C.R. Groves: I'll keep it short and sweet. My concerns, as outlined in my letter, focus specifically on section 34.

As a resident and taxpayer of Vespra township, county of Simcoe, I am totally opposed to section 34 of Bill 51 as it currently is drafted. In my opinion, the intent of section 34 can only be the means of changing the boundaries of any of the municipalities that share a common border with the city of Barrie or a common border with the city of Orillia up until January 1, 2001.

For the township of Springwater, which is to comprise the townships of Vespra and Flos, plus the village of Elmvalle, along with some further adjustments, the prospect of any boundary change involving the city of Barrie and whatever portion of the present township of Vespra the minister at the time may deem appropriate is alarming and totally unacceptable for the following reasons.

I might add, I'm also a Vespra township councillor. I'm a member of the transition committee and I have been working along with the other members of the committee on all of the preliminaries that will hopefully

set the stage for January 1.

(1) The administrative requirements of the township of Springwater are based on the total area and population of the township as of January 1, 1994.

(2) The wards that will comprise the township of Springwater are based on the population distribution of that total area.

(3) The staffing requirements of the township of Vespra are based on the needs to service the population and land base of the township of Springwater.

(4) The economic base of the township of Springwater requires the existing assessment plus whatever additional assessment may materialize over the years.

Conclusion: On the basis of the foregoing, it would be totally inappropriate for the minister to arbitrarily review any boundary change involving the city of Barrie and the township of Springwater. This could only result in the annexation of a portion of the present land mass of the township of Vespra in favour of the city of Barrie. This would only serve to seriously erode the economic viability of the township of Springwater. Section 34 of the act, respecting the restructuring of the county of Simcoe, as represented by Bill 51, must be deleted.

Some of the comments that were made prior to the presentations—I notice that this section 34 was one of the more contentious issues and even though—and I believe Mr Griggs mentioned that all of these recommendations were locally generated. I seriously question that any reference to section 34, which even though it was explained was permissive, I consider it very antagonistic. I doubt very much whether that was a recommendation that evolved out of the county council.

A further point that is not concluded in my presentation I would like to make verbally, that in the annexation act of 1983, the Barrie-Vespra Annexation Act, the boundaries of Vespra township were deemed to be—remain status quo until the year 2012. Now, this point has not been raised, to the best of my knowledge, during this hearing today.

So really we've got three possibilities: The minister, any time up until the year 2001, can arbitrarily review—and I doubt very much whether the minister would review against the city of Barrie; it's more likely that there would be territorial designs on the township of Springwater; (b) There are references to the boundary changes act, which has another option available, and now I'd like to remind this committee that there is also the Barrie-Vespra Annexation Act which took a very significant component of the south part of Vespra township and incorporated it into the city of Barrie under the annexation act in 1983. The way that act is set down, that boundary is supposed to be valid until the year 2012, so why have we got this section 34 which gives the minister the option of further eroding the base

of the township of Springwater at his discretion even though, as you say, it's permissive well before the year 2012?

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Those are the points I wish to make and I thank you very much for the time that's been made available.

The Chair: Thank you for coming before the committee.

Mr McLean: I have a couple of questions, Mr Groves. The city of Barrie's boundaries are now totally full out to the north end of the city to the gas line that went through there, and that was a boundary. Do you not anticipate that some time in the near future Barrie will be asking for boundary negotiations to be put in process?

Mr Groves: I don't doubt that could very well be the case. The thing that concerns me, section 34 is probably the first vehicle that the city of Barrie's going to utilize in order to achieve that objective.

Mr McLean: They don't have to use section 34 at all, they could just apply for boundary negotiations under the act that's presently in place and proceed.

Mr Groves: So that makes this section even more redundant.

Mr McLean: I don't know why it was there. I know the county didn't want it put in. My understanding was Cooke put it in to kind of pacify the two cities after they were no longer part of the county restructuring committee. But in my opinion, I don't really know whether it has any benefit at all because it says, "He may," but under the boundary negotiations act, they can apply at any time.

The other question I'd like to ask you is why was Elmvale, Flos and Vespra put into one? Why was Vespra added to it? Have you any idea why that would happen?

Mr Groves: As opposed to what?

Mr McLean: Leaving it alone.

Mr Groves: I think they were looking at a so-called economically viable unit comprising the three municipalities.

Mr McLean: Okay, that will lead up to my supplementary, then: So wouldn't a viable unit, with Midhurst now being in Barrie, the viable unit would be left with Flos, Elmvale and the other half of Vespra. Wouldn't that leave a viable unit?

Mr Groves: No, it wouldn't, in my opinion, because a very large part of the township of Springwater would include the village of Midhurst, a population of over 2,000 people, and if you remove not only the population but also the assessment of that part of the township, you've effectively emasculated the township of Springwater.

Mr McLean: A hidden agenda.

The Chair: Yes. The parliamentary assistant?

Mr Hayes: Of course, my understanding is not the same as Mr McLean's. I don't think Mr Cooke just arbitrarily came in and said, "We're going to do this." It was at the request of a couple of the cities.

However, if we were to do away with section 34, would you support this restructuring bill?

Mr Groves: As a member of council, and I'm a part of Vespra township council, the reeve has already made that statement, so I follow along with the presentation that was made.

Mr Hayes: We'll take your comments very seriously.

The Chair: Thank you very much for coming to the committee this afternoon and taking time to set forth your views.

Mr Groves: Thank you, Mr Chairman.

KINGSWOOD ACRES BEACH ASSOCIATION

The Chair: Our last witness today will be Mr Alan Taylor, if Mr Taylor would be good enough to come forward. As he does so, I believe—and I hope I have this correct—that Mr Taylor's the president of the Kingswood Acres Beach Association in Tiny township and will be speaking to us, I believe, on behalf of the association. Mr Taylor, welcome to the committee. Once you've settled, please feel free to begin.

Mr Alan Taylor: Thank you very much for talking to me at the last moment. I got on the agenda, thanks to the clerk. I was notified by Tiny township on Friday that I was allowed to come and speak and it seems so typical of the township and the council that seems to represent me. I'm the lost soul in Tiny township. I'm a cottager. I'm a seasonal resident. I very much feel betrayed and I'm disenfranchised. You've heard today that there were 400 voters who voted for restructuring and 5,000 against. I am absolutely appalled that this is where I am today, saying I would like you people to make it right. I just cannot believe that Tiny township put me in this terrible position. I do not want restructuring. It's not wanted. It's not needed. It wasn't asked for. It's been put down my throat by the Tiny council. In that regard, I would like you people to help me out.

I just want to give you a couple of ideas of things and how I feel about this. All I am doing is reflecting the feelings of not hundreds but perhaps thousands of people in Tiny township. We were ignored. We were absolutely ignored. You have to remember that. The taxes will go up, trust me. They are not going to go down. I cannot afford it. I am withholding taxes now in Tiny township because I want them to know how I feel. That doesn't seem to matter to them. I do not want to support an arena in Collingwood. If we come to restructuring, that's what I'll be paying my taxes for. I do not want to support a ballpark in Alliston. That's what restructuring might mean.

I come from Mississauga, and you must know that big is not better. Large businesses and corporations have failed us. Look at General Motors. Look at IBM. Look at Peel region. We are going to dismantle Peel region in that area. There's a great movement towards that. Why are we building a bigger and better horse? We don't need one. I am not against change, but I did not see one benefit to me, the guy out there paying the bills for you guys—not one benefit for me. Nobody told me. It's not in writing. It's not in the paper. My reeve—I think his name is Hastings; I wish I didn't know his name—did not tell me anything. He did not want to see any financial papers on that. This is very typical. I can't see why this should go ahead.

Again, I just have three words to say about restructuring: No, no, no. That's all I have to say.

The Chair: Thank you. Your message is clear. We'll begin the questioning with Mr Wilson.

Mr Jim Wilson: Thank you, Mr Taylor. I appreciate your frustration with respect to the process to date that's brought Bill 51 to this stage. I too have been fighting it along the way and, in the last couple of years, have introduced private member's bills, which unfortunately have been defeated at Queen's Park, to try and ensure that municipalities are not restructured against their will and to try and bring some democracy back to what is supposed to be a parliamentary and a democratic society.

What was the result of the referendum in Tiny township?

Mr Taylor: In the election? It was 404 and 5,000 against restructuring.

Mr Jim Wilson: I just wanted you to reiterate that, because I think the average across the county where the question was put on the ballot was over 90% would have been opposed to restructuring. Your reeve, Ross Hastings, in fact ran in that election opposed to restructuring.

Mr Taylor: That's correct; he did. That's why I feel betrayed.

Mr Jim Wilson: He's now warden, for members who don't know that. For the world of me, I don't know what changed his mind or what happens to people when they come here to the county building, but if I were to run on one thing and do a complete flip-flop midterm with no explanation to my constituents, I would expect my constituents would kick me out, particularly in this day and age when people are sick and tired of that sort of politics of saying one thing and doing something else.

All I can say is that I appreciate your frustration. I have challenged three wardens now, Nancy Keefe, Stewart Fisher and more recently Ross Hastings. I've said to them: "I've got an open mind on restructuring, initially. If this is such a good idea, why aren't you out

at the Rotary clubs and the Lions clubs and whatever other groups you can get an audience at and explain to them the benefits of restructuring?" Three wardens now and oodles of county councillors have failed to take me up on that offer.

Even if I were in favour of restructuring, I could not sit here, sir, and give you five good reasons for it, nor could I give a speech to a Rotary Club. I suggest the reason Mr Hastings and others— they're all good people, but on this particular issue, I think the reason they haven't been out explaining it to the ratepayers is that they don't have a leg to stand on when it comes to this legislation. I'd just say that some of us have heard you. The point is, as you see, the government members outnumber us seven to five, I think it is, on a good day. You've got to convince them that this is not what the NDP stood for at one time.

The Chair: I know that you were made aware of this late in the day, but none the less, we want to thank you. I know you've been sitting through the meetings. I appreciate your coming before the committee today.

Mr Taylor: I feel a lot better.

The Chair: If I could, just before we break, for those who will be taking the bus, it will leave in approximately 15 to 20 minutes. There's just a need to get all the equipment together to go on to Orillia. Our hearings will start tomorrow morning at 9 o'clock.

Mr Jim Wilson: This is with respect to my comments about Hansard, Mr Chairman. What's the earliest possible?

The Chair: At the moment, we are going to try to do our best. I understand that there have been similar requests from other committees, which has got everybody working quite hard. If you could let us just see where things stand overnight, we might be a little clearer in the morning.

With that, the committee stands adjourned until 9 o'clock tomorrow morning in Orillia at the Highwayman Inn.

The committee adjourned at 1718.

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Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs O'Neill

Hayes, Pat (Essex-Kent ND) for Ms Carter

McLean, Allan K. (Simcoe East/-Est PC) for Mrs Cunningham

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Hope

Wessenger, Paul (Simcoe Centre ND) for Mr Martin

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

 Griggs, Jeremy, fact-finding officer, municipal boundaries branch

 Hayes, Pat, parliamentary assistant to the minister

 Perron, Linda, solicitor

Clerk / Greffier: Arnott, Doug



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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 24 August 1993

The committee met at 0902 in the Highwayman Inn, Orillia.

COUNTY OF SIMCOE ACT, 1993

LOI DE 1993 SUR LE COMTÉ DE SIMCOE

Consideration of Bill 51, An Act respecting the Restructuring of the County of Simcoe / Loi concernant la restructuration du comté de Simcoe.

The Chair (Mr Charles Beer): Good morning, ladies and gentlemen. It's the second day of the hearings of the standing committee on social development, today in Orillia. We're very pleased to be here and look forward to our morning of hearings.

I was remiss yesterday, when we were in Midhurst, at the end of our meetings not to officially put on record our thanks to the county of Simcoe for allowing us to use its administrative building, and somewhat belatedly I would like to note that for the record. It was a very good place to hold our meetings, and we're delighted today to be at the Highwayman Inn here in Orillia.

GARY THIESS

The Chair: We have a full morning of presentations, so we'll move right to our first presenter, Mr Gary Thiess. Mr Thiess, if you'd be good enough to make your presentation and introduce your colleague, please.

Mr Gary Thiess: Mr Chairman, I thank you for the opportunity of being here this morning. If I might, just as a preamble, I feel quite happy that the former reeve of Orillia township, Jack Fountain, has agreed to participate this morning. He was the reeve when I first became a councillor. He first became the reeve of Orillia township and he has 18 years of experience as a member of council and county council in the county of Simcoe.

The Chair: Mr Fountain, welcome to the committee.

Mr Thiess: Mr Chairman, ladies and gentlemen of the committee, I thank you for this opportunity to present some views of the disenfranchised 1,100 property owners, 80% of them permanent residents from Eight Mile Point, Forest Home, Bass Lake, Maplewood Parkway and Moon Point associations.

All of these citizens' groups have at one time or another made presentations to the study committees clearly indicating their community of interest, their community of choice. The ministry response was a form letter and no recognition. A case in point: the presentation by the Eight Mile Point Trust and Cottagers Association on August 29, 1990.

If you refer to exhibit 1 in the presentation—I hope

I've marked them just inside the green book—exhibit 1 was a presentation made on August 29 and recommendation 1 from that submission was that Eight Mile Point should be in one jurisdiction; recommendation 2, that Orillia township should remain as it is.

These recommendations, along with the submission by Orillia township, "though not opposed to the boundary through Bass Lake," drew the committee's attention to the source of the North River, a significant drainage course in Orillia and Matchedash townships in Bass Lake. It was Oro township and the city of Orillia that determined that Bass Lake was an environmentally sensitive body of water.

The lone study committee representative from the northern municipalities, the reeve of Matchedash, reported to her colleagues that Bass Lake's only significance was its provincial park, and when questioned, thought the North River flowed from Matchedash Bay to Bass Lake. When the township of Orillia's submission correctly reversed that information, armed with the recommendations from the Eight Mile Point residents' association, the committee drew the line that enhanced the present Oro-Orillia boundary to reflect the wishes of the resident population and the environmental concerns that might or might not occur on Bass Lake. That is in the green book on page 35, section 2, map 11. That's the line that the initial committee drew.

By the time the next round of public consultations were held, the council of the township of Oro circulated a document which erroneously reported that if the Bass Lake area were to be amalgamated with the township of Orillia, a 24.9% tax increase would occur. They got that information from the draft financial report that was circulated in the early stages. That is exhibit 2 at the back of this submission, "Township of Oro."

By March of 1991, a number of municipalities in the county had serious doubts about the validity of the figures contained in that draft report. Nevertheless, Reeve Drury chose to circulate what we will call, as I said, exhibit 2 to the residents of Bass Lake living in Oro township. Had the report been distributed to Orillia township residents living in Bass Lake, then they, like their counterparts in Eight Mile Point, might have had a true comparison of the current values. It did not happen.

Those residents, mostly from Big Cedar Estates modular home park and a select few from the north shore of Bass Lake, having been recently introduced to market value assessment and faced with a 24% increase, played to Reeve Drury's oratory at county council. County councillors also responded to the promise of

defending these residents from the evil city, recently sent away by the county for exercising their ability to control the study committee.

I was elected in November of 1988 to represent ward 3 of Orillia township. Ward 3 surrounds the city of Orillia. It is ward 3 that the city salivates for. We have quiet residential areas, some of them shoreline on Bass Lake and Lake Simcoe on large lots. There is a progressive industrial park that is the model of a municipality working with small dry industries to create jobs and a supporting tax base. Finally, there is a commercial corridor that abuts Highway 11 as it traverses the township.

When the county took over waste management, the only regular service expectation was a modest road that would enable these residents to access other infrequent services and to shop for essentials, probably in Orillia.

There has been a lot of development pressure on ward 3. There could be a lot more pressure, but in the last 24 years the council of the township of Orillia, displaying excellent stewardship, has always held that the city of Orillia should have room to expand its boundaries.

The 24-year period began shortly after a bitterly contested annexation by the then town of Orillia, with promises of such city luxuries as water, sewer and bus service. There are, after 24 years, still significant areas in the city that do not have any of these services.

The realization of what had happened and what could happen led to the formation of the Couchiching area plan, wherein the future growth of the city could be encouraged in that area of Orillia township south of number 12 highway—that is the Coldwater Road—and could eventually encompass all of that area that has now been given to the township of Oro-Medonte.

0910

Of course there were strings before country restructuring came along. The city agreed that further expansion would require need and service agreements. For their part, the township agreed to stop any further development in the aforementioned area so that development could occur unencumbered. In 1988, the city of Orillia asked, not demanded or threatened, but asked for 680 acres of land for industrial development.

What eventually ensued was an undisputed agreement whereby the city of Orillia acquired 1,900 acres of prime developable land that, from inception to ministerial approval, took a year, the only stipulation being that "the city was obliged to wait 10 years"—that is 1999—before a further request could be entertained, and again need and ability to service was a requirement.

The current official plan for the township of Orillia, initiated in 1989, has just received ministerial approval in June of this year and so is probably one of the most current in the county. It evolved from the Couchiching area plan wherein the city of Orillia and the townships

of Matchedash and Orillia agreed on a number of issues, most importantly, the determination of the development of the city. This was an amicable arrangement until county restructuring. Now Oro-Medonte, without experience of past negotiations, is to be given the land in question, to quote Reeve Drury, "To protect against the advances of the city."

Today, I count myself with the 1,100 residents who have indicated through several referenda that we don't want to live in Oro. We pay our dues to Orillia and enjoy living in Orillia township. Further, Orillia township's 8,500 residents paid library services to the city to the tune of \$145,000 this year. We furthermore contribute to the recreational programs of the city while maintaining a passive recreational outlet for city residents that probably tips the scales in our favour.

A year ago, Mare Brown, in a letter dated March 24, 1992, to Orillia township's clerk-administrator, James B. Mather, indicated that the wishes of 1,100 people lay in the hands of 10 elected officials of Oro-Medonte, and since they were not about to change their position, our request could not be considered. Although not documented, a comment was made by an adviser from the municipal boundaries branch—by the way, I think that's exhibit 3 in the back of this submission—that perhaps a million-dollar offer might allow us to buy ourselves back. Now, isn't that incredible?

On another occasion, again undocumented, Orillia township council travelled to Toronto to meet with one of the chief negotiators of the day of municipal boundaries branch, Don Taylor, who was the instrumental architect in the south Simcoe amalgamations. At our suggestion that what was happening to Orillia township was unwarranted and unfair, his retort was, "Gentlemen, decisions like this are made every day; they're made in bars; they're made in parking lots, whatever it takes to get the job done."

I just cannot accept that statement. To suggest that, stripped of most of its industrial and commercial assessment, the remnant township is to be merged with the smallest village and the smallest township in the county whose proud service capability is still 20 years behind present standards, is about as sadistic a move by ministry staff as someone who pulls legs and wings off a fly until it can no longer move.

Finally, I'd like to draw to the committee's attention the present representation aspect of Bill 51. I was elected to represent ward 3 of Orillia township, some 3,000 souls, 1,100 of whom, including myself, are destined to become a part of the township of Oro-Medonte. How about that: resident in one municipality, council representative in another.

Pardon my lack of dedication for not wanting to legitimize the precedent-setting situation. It's only 10 months, you say? Not so. For a year now, since Mare Brown's edict of March 24, 1992, I have experienced

the futility of serving with four fellow councillors who are, even now, scrambling to establish control of the assets accumulated by past councils with a very efficient, albeit well-paid, staff who have diligently served this municipality well, ranking fifth-lowest overall in the county in salary and wage expenditures. Their accomplishments are many, and I offer as evidence a ministry publication. It's exhibit 4. We'd stack our administrative costs up against any municipality in the county.

Mr Chairman and committee members, you've heard it all. All I can do is implore you to read again the draft report, pages 60 and 61. That's the green book. Look again at the study committee's guiding principles and the criteria for a viable municipality. I'm not boasting when I say Orillia township has it all. We have more to give than most municipalities and we've offered to share with two of the smallest, and therefore poorest, municipalities in the county.

The thanks we get is dismemberment. The analogy is that the hand that was in our pocket, grabbing for our wallet, tore our leg off. It's no laughing matter. The committee that set out to create 16 relatively equal, strong municipalities has come up short on what could have been a model experiment. The ministry, in concert with those self-serving representatives who exerted their will on their less politically connected neighbours, should be made accountable.

I thank the committee members for giving me this opportunity to appear. How the ministry and the government could arrange this series of meetings at this time has cynicism reigning supreme. My compatriots are all in Hamilton at the AMO convention.

Thank you very much for listening so patiently to this presentation. If there are any questions, I've almost five years of experience since MPP Allan McLean told us at our inauguration that our paths had taken us to a source of education available nowhere else. If you want to test me to see what I have learned in five years, I'd like to show you that my intentions are not politically motivated. Thank you.

The Chair: Thank you very much, perhaps I should say for that education. We will go then to questions.

Mr Allan McLean (Simcoe East): I have very brief questions, because this has been an ongoing problem with this part of the municipality. I guess the thing that disturbs me most is the people who lived there had no say whatsoever in where they would like to live. I'm pleased to see your presentation point out that very fact. It shows to me the flaws that have been in the study committee, with not listening to what the people want.

The question that I have for you, Gary, is simply, what can we do now, as a committee, to change the boundary line that has been put there by the study committee? The study committee has agreed to it. The ministry says there will be no major changes; there will

be some minor ones. What do we do now, as a committee, to rectify the wrongs that you have pointed out in your brief?

Mr Thiess: In response, I might say—and I go back to yesterday's submission by John Brown. The futility of this situation, as John indicated, was that as an insignificant number—our representation at county council was three votes. We have a permanent population of 8,500 people. Our counterparts to the south, Oro township, show a population of over 10,000 people. They had two delegates and five votes. It was very difficult for the reeve of the day to win enough points to secure our presentation.

This is not substantiated in any way, but it almost looked like it was a buyoff. Five votes from Oro township were secured by the dismemberment of Orillia township. That's the flawed process that everybody refers to.

0920

Mr McLean: Probably not all the committee members are aware what the background was that was read to them yesterday by the fact-finder. The point was, with the weighted vote of county council, after the south end had been restructured, the numbers were not there for the majority of municipalities in the north end, who were opposed to it, to have enough votes to stop it in the north end. That is where the problem came in: When you had the weighted vote in the large municipalities in the south, they outvoted the small ones.

Mr Thiess: It's a position that would probably still hold true. Representation by population is recognized as the determining factor as to the number of votes that everybody has. Under normal circumstances, I'm sure that would be satisfactory, but in our particular case, the politics being what it was, if you like, there were points to be gained here.

The Chair: We have time for one more question.

Mr Jim Wilson (Simcoe West): Thank you, Mr Thiess. I just want to ask the parliamentary assistant representing the government whether the government's inclined to correct this wrong or not, given what you've heard this morning.

Mr Pat Hayes (Essex-Kent): Actually, as Mr Wilson knows, the procedure is that we do ask the questions of the people making the presentations. However, that's what this committee is here for, to listen to the people. I don't think you've seen this before, that a committee such as this would come out and listen directly to the people for their concerns. We do have a procedure where we'll be going clause by clause to deal with the whole report. At the present time, it would be foolish for me to say, "Yes, we're going to change boundaries here and there." I don't have that authority, and I think Mr Wilson knows that.

Mr Thiess: Again, Mr Hayes, I guess the futility is

that we've been listened to many times but we've never, ever received any acknowledgement for our position.

Mr Hayes: Like I just said, this type of committee—

Mr Thiess: We've got 1,100 people who participated.

Mr Hayes: When we talk about restructuring, there has been other restructuring that has taken place over the years across the province. I believe this is the first time that—and I'm pleased to be here and I'm glad we're able to come and at least listen to the people, to their concerns. That's exactly what we're doing.

The Chair: I'm afraid that because of our time constraints we're going to have to end there, but I want to thank you for coming before the committee and for providing us with all of the background material as well and setting out very clearly what your specific point and issue is.

Mr Thiess: Thank you very much, Mr Chairman.

Mr Jim Wilson: In the interim, perhaps I could make a comment to the parliamentary assistant. I'm not at all pleased with that answer. Mr Hayes, you're the most senior government official here. It strikes me that these hearings—which, by the way, the government didn't want to have; we had to force you into them—if they are going to be just a futile exercise—

We've been told for over the last year now that the government isn't inclined to change any boundaries, so why do we have citizens—by the way, this is their first opportunity to explain first hand to Queen's Park some of the wrongs they feel have been done in this whole process. On Thursday is clause-by-clause. That's two days from now, the last chance to make, as far as I know, any amendments during this process, and we need a better indication from the government whether you're seriously going to consider these presentations or not.

Mr Hayes: I think, Mr Wilson, you're well aware that there were lots of submissions that were made. There were boundary changes that were made and, at the same time, county council has made a decision on this particular issue. I'm not sure whether a provincial government should come in and start just strictly dictating and changing things where a majority of county council has made a decision. But we're certainly willing to look at it through this whole process.

The Chair: I'm sorry. I think we're going to have to move on.

Mr Thiess: One last comment, if I might. If there's a real concern about the change in this, the township of Oro-Medonte doesn't know what it's getting, so they are not going to miss the fact that this area doesn't belong to them. They are both very viable municipalities. They don't need that assessment. It's a shame that Orillia township has to suffer this gross indecency.

The Chair: Thank you again.

TOWNSHIP OF MARA

The Chair: If I could call on the representatives from the township of Mara: the reeve, Tom Garry, and the treasurer and administrator, Frank Mangan. If you'd be good enough to come forward, gentlemen. We have a copy of your presentation, and once you're settled, please go ahead.

Mr Thomas V. Garry: I'm very pleased to be here this morning and to introduce our administrator and deputy clerk and treasurer of the township of Mara. We're very pleased to be in front of the committee. I thank you for the opportunity of allowing us to make a presentation this morning before the standing committee on social development.

This presentation is made to the committee with respect to Bill 51 to outline concerns of the corporation of the township of Mara with respect to section 43 and to reiterate concerns with sections as previously expressed in submissions made in September 1992. Specifically, the municipality has very grave concerns with respect to section 34, the municipal boundary review, city of Orillia, and subsection 43(20), one vote per member of the transition council.

On behalf of council and the electorate of Mara township, I request that this committee and all persons involved with the legislation give serious consideration to the concerns expressed by this municipality with respect to city boundaries and transition council votes.

The municipality has recently determined that an error exists in subsection 11(15), exception for the township of Mara. It has been determined that the wording of this section should provide that "the township of Mara may, by bylaw passed during 1993," instead of "the township of Ramara," which is stated in the act.

In addition, comment has been provided on the following sections and no responses have been received by this municipality: section 9; subsections 21(1) and (2); subsection 29(2); subsection 43(19); subsections 45(1) and (3). I request that this municipality be provided with responses to the inquiries which will permit restructuring to take place in an orderly manner that will provide everyone with an understanding of the specific sections of the act.

It is believed that these sections will have great long-standing and far-reaching effects on the municipalities created by January 1994 and to continue with duly elected councils from December 1, 1994.

Respectfully submitted. I thank you. Both Mr Mangan and myself will address any questions you might have with respect to our submission and our presentation which you have in front of you, with regard to the sections pointed out.

The Chair: Thank you very much for your submission, which is very specific and detailed and laid

out. I don't know if there are any—Mr McLean?

Mr McLean: Who did you want to receive the response from? Was it from the ministry or from the county restructuring committee?

Mr Garry: From the ministry.

0930

Mr McLean: Have you ever received a response from the ministry with regard to those concerns that you raised on sections 9, 21(1) and (2)?

Mr Garry: No, we've never received a response from the ministry regarding sections 9, 21(1) and (2), 29(2), 43(19), 45(1) and (3), Mr McLean.

Mr McLean: It's in your brief, but you didn't talk about it, and that is section 34, with regard to the boundaries—"dealt with in an established manner rather than at the discretion of the minister." That has to do with the two cities, your position on that. I want to relay some of the concerns I have, that the cities can apply, under the Municipal Boundary Negotiations Act, to modify their boundaries whenever they want to, to have an arbitrator look into it. Section 34 doesn't stop that from happening. Why do you suppose section 34 is in the act?

Mr Garry: Our position in our municipality is that section 34 should not apply to the township of Ramara, or the township of Mara for that matter, in that we have a natural boundary between the city of Orillia and the township, that being the Narrows, a body of water which can be environmentally unsound to make or take services across the natural boundary and the possibility of the pollution of the headwaters of the Great Lakes by either sewage or other materials which might be carried by pipe over or under the Narrows. I think that's of grave concern and I think the township of Mara, having that natural boundary of the Narrows, should be respected and maintained and not violated.

Mr McLean: What bylaw has the county repealed with regard to the plurality votes? I didn't know they had repealed one.

Mr Garry: Yes, Mr McLean, the county has repealed the plurality of votes on committee, not on county council but in the committees. The county has repealed the plurality of votes on committees whereby each person on a committee has one vote and not a plurality of votes as has been in the past.

Mr McLean: We may not have been here today if that had taken place in county council.

Mr Garry: That's correct.

Mr McLean: Would that be right?

Mr Garry: That is correct.

Mr McLean: So the weighted votes in the south end or with the large municipalities are what carried the—well, what's going to happen now when your municipalities for the year 1994 with regard to—I believe the act

states that there's one vote for each individual member of council.

Mr Garry: That is how it's stated in the act, Mr McLean. The act states actually that during the pre-election period, we'll have one vote; each member of council will have one vote. At the present time, the five members of council of the township of Mara represents the interests of 10,087 electors and the council of the township of Rama represents 3,160 electors. In accordance with the legislation, during the pre-election period, the five members of Mara township will represent 76% of the electorate and will have only 50% of the vote. Alternatively, five members from Rama township will be representing 24% of the electorate and will have 50% of the vote. It is the position of the township of Mara that weighting all of the votes will reflect the percentage of the electorate being represented and should be permitted during the pre-election period only.

Mr McLean: I guess the bottom line on that is once you're dissolved and the new boundary is in effect, it's all one municipality.

Mr Garry: That's correct.

Mr McLean: Ramara will be one municipality for 1994.

Mr Garry: That is correct.

Mr McLean: So you still want to go by the percentages. If it's one municipality, does it make a difference?

Mr Garry: It was my feeling and the feeling of many others I've spoken to regarding this that the five representatives from Mara township were not elected by the persons or the electorate in Rama township and vice versa, the electorate in Rama township did not elect the representatives in Mara township.

The Chair: I have Mr Wilson, Mr Conway and then the parliamentary assistant.

Mr Jim Wilson: Dr Garry, in section 9, it does contain the word "may," that the county may, by bylaw, allow for plurality votes but doesn't necessarily have to. I gather that's not satisfactory.

Mr Garry: I believe that is the county council "may by bylaw provide that a member who has one or more additional votes in council by virtue of this part shall have the same number of additional votes as a member of any committee."

I think there's some misunderstanding here because that has been provided for by resolution of county council, the date I cannot recall. It was in the spring of this year when we asked for this to be resolved. It was resolved by county council so that now the plurality of votes is with county council and not with the committees thereof.

Mr Jim Wilson: I guess my point is, I understand that, but in the future, should the county want to change

that, my reading of this section is that it would allow them by bylaw to do that. Are you objecting to this section being in the bill at all, or would you rather that simply the status quo be maintained, which may mean we just delete this section?

Mr Garry: I believe that this section, all of the bill, should be deleted and that the present situation at Simcoe county should exist.

Mr Jim Wilson: Mr Chairman, given that we still have a few minutes, I wonder when it's the parliamentary assistant's turn? If he could just go through the other pages of the brief, point by point, that would be very helpful.

Interjection.

The Chair: —that way you can deal with all the points.

Mr Sean Conway (Renfrew North): Reeve Garry, I very much appreciate your presentation. My friend Mr McLean helps me understand some of the nuances of all of this, which are considerable.

I'm just looking at the first couple of recommendations, and they have to do with this plurality weighted vote. I'm intrigued to know what the thinking is around not allowing the population distribution of the county, which is more or less reflected at county council, to therefore be reflected in the committees. Is that simply because the county council can override whatever the committees refer up, so that the interests of larger municipalities, or the people, as it were, are protected in that respect? It would be unthinkable, for example, at the Legislature to have committees that didn't reflect the distribution of the House as a whole.

Mr Garry: At county council, Mr Conway, it's a little different. At county council, not only do county councillors sit on committees—for example, I sit on a social services at the county, and also the city of Orillia, for example, sits on that committee and each person on the committee now has one vote.

Prior to that, if a motion were recorded, for example, and the vote was recorded, then the plurality of votes would come into effect. For example, I would have, representing the people of Mara, three votes. The representative from the city of Orillia—I don't know how many votes he would have because it has never come up.

Mr Conway: Thank you. I appreciate that.

0940

Mr Hayes: Thank you for your presentation. On the issue of the votes, you people asked for an amendment, I think, for the interim councils, like through A1, is that correct?

Interjection.

Mr Hayes: Well, it says it here. It's not this particular council, but there is one. I'm sorry. I think the

committee would probably look favourably upon that, so one or two municipalities wouldn't be able to, say, have the hammer over the head of the other municipality. I think this is one of the areas that we'd be looking favourably upon.

The other thing, of course—section 34 comes up a considerable number of times. I think the more we hear the more we will take a better look at that particular section.

At this time I would like Mr Griggs from the ministry to address some of the issues that were raised about the various sections in the bill that you people have stated you have not got response from the ministry on.

Mr Jeremy Griggs: I just had a question, first of all. In your comments, are you referring to a letter dated October 6, 1992, to the Minister of Municipal Affairs? We received a letter under the signatures of both the township of Mara and the township of Rama commenting on the draft bill that was circulated to the municipalities. In fact, we have on record that a response was sent to both municipalities dated December 14, 1992, addressing all of the concerns raised. I can go through them quickly, if you'd like.

Regarding section 9, which is the plurality of votes at committees of county council, you have indicated that you would prefer that the status quo be maintained; in fact, that's what this does. Section 9 is a continuation of a current provision in the County of Simcoe Act, 1988. The reason it's included in Bill 51 is that it's continuing a section in a bill that's being dissolved. In fact, that bill is being incorporated within this bill.

The section is permissive, as has been indicated. It allows county council the option of passing a bylaw to allow for multiple voting at committees or not. So it's not forcing multiple voting at the committees; it's at the discretion of county council, which is currently the case, as you indicated. They had multiple voting at committees and now they've decided not to. That's not changing.

Regarding section 11(15), thank you very much for pointing out the problem with that section. I should point out that if an amendment is considered, it would likely point to a submission from both councils, not just one of the townships, regarding the bylaw. Would that be acceptable? You had indicated that you would prefer it to have a reference to the township of Mara and, because the amalgamation involves the two municipalities, it would likely require resolutions from both councils.

Mr Garry: I'll have my administrator answer that question for you.

Mr Frank Mangan: I don't think our concern with that section applies to what is desirable or what the two municipalities want. It is impossible for the township of Ramara to pass any bylaw in 1993.

Mr Griggs: Whatever it takes to correct the section.

Mr Mangan: If the section is left that way, it will be impossible to implement—

Mr Griggs: We will likely be bringing forward an amendment to correct that problem.

Regarding subsections 21(1) and (2), this is regarding the treatment of the municipal levies and the county levies. Because the new municipalities will be made up of parts of former municipalities, each assessed at different years, there is a need to provide for the distribution of not only the county levy but also the local levy of that new municipality between those parts. That's what these sections provide for.

In essence, each of the parts of the individual municipalities are treated as municipalities for the purposes of distributing the county levy, the school board levies and the local levies. The reason for that is you have to bring all those parts up to a base assessment year to allow for the distribution of that levy on the basis of assessment. That's what that section accomplishes. That concern was also addressed in the letter that was sent to you.

Mr Mangan: Is it intended that these factors will be changed annually or continuing with the current situation?

Mr Griggs: I just want to take a quick look at this section. I believe the section allows for the minister to set these equalization factor annually, and they do change from year to year because of changes in assessment in those areas, new development and such. So they would be changing annually, and the sections do provide for notification to the municipalities. That's a standard treatment basically to deal with that distribution of the individual levies between the parts of the new municipality. Of course those sections would cease to apply if there was a reassessment in the area bringing the entire municipality up to one base year.

Regarding subsection 29(2) about urban service areas, the draft legislation provides for the establishment of urban service areas by allowing the municipalities to designate urban services. You've indicated sewer and water. There are a number of other services that can be said to apply to a specific area. Examples are sidewalks, street lighting and garbage collection where it only applies to a portion of a municipality. All these things that benefit a specific area could be treated as an urban service and charged to just the ratepayers receiving that service.

Mr Mangan: So you're indicating that our sewer and water service areas have to be approved by the Ontario Municipal Board.

Mr Griggs: No, I believe it provides for the establishment of urban service areas by—

Mr Mangan: It indicates a municipality may, with the approval of the OMB, by bylaw identify an urban service area.

Mr Griggs: Yes, and also under subsection (4) it allows for the minister to do the same things the Ontario Municipal Board does during 1994. So the idea is that during 1994, that transition year when the interim councils are sitting and the new municipality is getting its new operations into order, the municipality could make a submission and it would be implemented through minister's regulation rather than having to go to the OMB.

Mr Mangan: At present, OMB approval is not required for establishment of these areas. Why is it being implemented in this legislation?

Mr Griggs: I'm going to have to consult with some other staff. I wasn't aware that that was the case.

Mr Conway: We may as well take that as notice, I guess.

The Chair: Could we take that question as notice? If we could do that, we'll get back to you on that. I think if we could just move through the other points, I regret, as always with the number of presenters, we're going to be tight on time. So if there are some that will need some further information, we'll get that.

Mr Griggs: Do you want me to continue?

The Chair: Yes.

Mr Griggs: I'll be very brief.

Section 34 Mr Hayes has spoken to regarding the future review of the city's boundaries.

Subsection 43(19): This again was answered in the letter from the minister to both councils. It indicates that the bill sets the latest possible date for the inaugural meeting of the municipality and that the new council would have to be sworn in.

Mr Garry: I don't think the specific questions that we have asked here were addressed in that letter.

Mr Griggs: Well, the questions, as I read them, are: What is the purpose of the first meeting of the council? It would be the same as any other first meeting of a council that's newly elected. Is it an inaugural meeting? The first meeting would be the inaugural meeting of the new municipality, yes, and that council would have to be sworn in at that first meeting.

Again, regarding your concerns with respect to multiple voting on the interim council, Mr Hayes has spoken to that as well.

Again, on subsection 45(3) regarding the treatment of development charges bylaws, I'm going to have to check into that as well and get back to you.

Mr Garry: I'd like to thank you, Mr Chairman, and members of committee for your attentiveness this morning and for the interest you've shown and the questions you've asked. I appreciate it.

The Chair: Thank you very much for the specifics of your presentation, and I'm sure you'll get a response to that other question you asked.

0950

COLLEEN COONEY

The Chair: I would now like to ask Ms Colleen Cooney if she would be good enough to come forward.

Interjection.

The Chair: Yes, that's a map of the county. We had people yesterday. We'll move that forward so it'll be easier for us to see it as you speak. Welcome to the committee, Ms Cooney, and please go ahead.

Mrs Colleen Cooney: Thank you, Mr Chairman and members of the standing committee on social development. I would like to start with a quote from the Honourable L.T. Pennell when he said, "Facts are stubborn and will not yield."

The process of restructuring Simcoe county has been anti-democratic and has been flawed from the very beginning.

The consultation committee on the restructuring of Ontario's 26 counties was announced by the Minister of Municipal Affairs in a previous government in 1988. The Tatham report was produced by a task force of eight members in the Legislature from the same political party.

In late 1989, the first study committee was formed in Simcoe county and was given the mandate "to undertake a comprehensive review of municipal government in the Simcoe area." The amalgamation of eight south Simcoe municipalities into three had been approved by the Legislature in June 1990. The study committee was to consider the restructuring of the north of Simcoe county.

A document named *What If...* was produced in August 1990. According to Mr Allan McLean, our local MPP, new boundaries were drawn up only two weeks to a month after the committee first began deliberations. The *what if* had been transformed magically to this is how.

It is apparent that the idea of restructuring was a top-down initiative, not a locally driven initiative. It is apparent that this process is anti-democratic.

Facts are stubborn and they will not yield.

The townships of Simcoe north which are being considered for restructuring were not equally represented on the study committee from the very beginning. Note the map, and you will see, in red dots, the members of the committee coming from the already restructured southern townships, four from the city of Barrie, which is not part of the political structure of Simcoe county, and three from the city of Orillia, which is not part of the political structure of Simcoe county. There was one member from Matchedash to represent the northern communities. Rama township, Mara township, Medonte, Oro, Vespra, Sunnidale, Nottawasaga, Tiny, Tay, did not have a representative. These were the townships being discussed for restructuring.

That is anti-democratic. That is a top-down initiative which we will not accept. This is unfair and unjust. It is apparent again that the restructuring of Simcoe county has not been a locally driven initiative.

Facts are stubborn and will not yield.

I'd like to address the issue of public consultation. It has been our experience that public consultation opportunities and open houses are not meant to glean information from the public but to inform and convince the public. Our letters to the county and provincial leaders have not been taken seriously. Enclosed in my package, which I'll leave with you, is a sample of 12 of the letters we have sent to Premier Bob Rae, to ministers of Municipal Affairs, two of them, and to the local wardens.

The present opportunity of addressing this standing committee after second reading of Bill 51 seems very late in the process to be seeking public opinion. We were given three days' notice to request the opportunity to make a deputation to you and six days to prepare. I received my written information yesterday by Purolator. That's not really seeking public input. As a citizen, I feel insulted.

Real public consultation has already taken place and is being ignored. In the fall of 1991, the electors of Orillia township were given the opportunity of democratically voicing their opinion. On the ballot was the question: "Are you in favour of retaining the present boundaries of the township of Orillia?" The answer? Yes. Of those who voted in the election of 1991, 91.2% said they wished to retain the present boundaries of the township of Orillia. That is one example to illustrate to you a fact: that the citizens of the communities in the north of Simcoe are not being listened to.

Facts are stubborn and will not yield.

We're wondering about a hidden agenda. There has been quite a bit of fast-tracking during this process and final reports which have been kept secret from the public as well as from elected political representatives until after they're voted on at the county council. A draft report which was widely distributed to many of us was greatly changed when the final report appeared for vote at county council.

It seems to many that there is a hidden agenda, and when we look at the greater Toronto area, GTA, and the problems created by Toronto attempting to dump on its rural neighbours, we can only guess what our Simcoe north politicians will be outvoted on in the future if Bill 51 passes.

We were dismayed to read in the initial document, *What If...*, a brief history of Simcoe county which completely ignores the fact that there is a history in Matchedash, in Rama, in Mara, in Flos, in Tiny and in Tay and that there are people living up there and that there is land north of Simcoe which has many, many

people, not just forests and limestone quarries.

We are concerned too about the planning committee which has been developed in the county. Why are politicians who are not part of the county on that committee? Why are not all the townships represented? Does this mean that our local democratically elected representatives will again be outvoted at county council when it comes to decisions about land use, for example?

Not all options for restructuring have been considered. For example, the option of dividing the northern townships from the southern townships into two political units has not been examined or presented to the public.

Facts are stubborn and they will not yield.

We have witnessed the upset which has occurred throughout Simcoe county, particularly in the north, over this restructuring. We have witnessed the speed with which Queen's Park and the politicians of south Simcoe are attempting to bully the politicians and the people in Simcoe north. We have witnessed the valiant struggle of our democratically elected representatives attempting to represent the views of the residents of these northern townships, some of whom are still living on land their ancestors pioneered.

It seems only logical that the only options left for the present are to leave things as they are or to divide Simcoe county into north and south, two political structures.

We refer you to the Haldimand-Norfolk Regional Review December 1989: A Reappraisal of the Regional Government Structure. This regional review took two years and cost \$250,000. The recommendation of the reappraisal for that area is, "A unitary system of two one-tier structures as a democratically viable, socially acceptable, effective and efficient alternative form of local self-government to meet the challenges of the future in the Haldimand-Norfolk area."

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The chair of that review committee, the Honourable L.T. Pennell, writes: "As to change, so much depends on how the issue is raised and when it is raised. Experience admonishes against premature decision. Time is the most decisive element in all phases of government."

Simcoe county is much larger, both geographically and demographically, than is Haldimand-Norfolk. The process which led to Bill 51 was flawed and anti-democratic. Bill 51 is not democratically viable, not socially acceptable and will not lead to an effective or efficient form of local government for north Simcoe. Facts are stubborn and they will not yield. Thank you.

The Chair: Thank you very much for your presentation. We will begin questioning.

Mr Stephen Owens (Scarborough Centre): Thank you, Ms Cooney, for your presentation. I guess, coming from Toronto, and this being my second day on the

hearings, and hearing a number of presenters talk about the plebiscites and referendums that have been held, unless I'm not hearing correctly, it seems that the majority of these plebiscites and referendums came down decisively on the side of not moving forward with restructuring. So I guess my question is, How do we find ourselves here today and where is the hidden agenda and what is the hidden agenda?

Mrs Cooney: I'm not understanding your question. How do we find—

Mr Owens: How do we find ourselves here today? Who moved us forward? Who moved us into the hands of the province?

Mrs Cooney: It was initiated, I guess, as I mentioned earlier, back in 1988 by a task force of politicians, all from the same party. Simcoe county, at Midhurst, apparently initiated an amalgamation of the southern townships and from there proceeded to try to restructure the north against the wishes of the politicians and the people of the north. We can be easily outvoted because of the heavier population in the south. Our opinions and voices are not being heard.

Mr Owens: We've also heard that the status quo is not working in some locations either.

Mrs Cooney: Nothing is ever perfect, but people have been able to get along with one another and work cooperatively up to this point.

Mr Owens: Sure, and my question is not with respect to human relations but in terms of working with other counties. What is the answer if Bill 51 is not the answer and people are saying the status quo is not the answer? What are your suggestions?

Mrs Cooney: I would like to know which people are saying the status quo is not the answer. The people in the south?

Mr Owens: Some of the local politicians that we heard from yesterday in Midhurst.

Mrs Cooney: From which township?

Mr Owens: Springwater.

Mrs Cooney: That's from down near Barrie. We're talking about Matchedash, Orillia, Rama, Mara, Medonte, Tiny and Tay up to the north.

The politicians in the south have different problems than the people in the north. We're very rural. In fact, Matchedash township has a population of about 500. We have summer residents, which brings the population a little higher.

The Chair: I'm afraid we're going to have to move on to the next question.

Mr McLean: Thank you, Colleen, for coming this morning. This is what these hearings were supposed to be about, to hear people such as you who have not been heard through this whole process. When I look at the list of people who are appearing, the majority are from

municipal councils or councils that are not happy with what has taken place. The reason why we're here is because we were told, time and time again, that if we didn't do it, the province would.

Yesterday, it came very clearly from the parliamentary assistant that this would not have happened. He said very clearly that the province was not going to do it if the county didn't want it, and the county was very adamantly saying, "We want it because if we don't do it, the province will." So here we are. Where that came from nobody knows. But I've said what you have said in your brief many times, and I thank you for coming today.

Mr Jim Wilson: Mrs Cooney, I want to reiterate what my colleague Mr McLean has said. As you know, I've introduced two private member's bills in the Legislature. Both were defeated by the NDP. Surprisingly, although the Liberals forced restructuring in the south end, where I lived, or was born and raised, in the Alliston area, we had support for those private member's bills from the Liberal party. Again, as Mr McLean said yesterday at the county administrative building, I wanted to clear the air, because we've been told, time and time again—Mr McLean and I have appeared before county council. We've told county council over the last three years: "We're your MPPs. We don't have a gun to your head. If you decisively say no, you don't want restructuring or you want a greater time frame to ensure that people are truly consulted, that would be fine." Yesterday, the government indicated that this was its position. The Premier was here in Orillia during the 1990 election campaign and said he would never force restructuring on the people of Simcoe county if they didn't want it.

Mrs Cooney: That's why we find it very difficult to understand what's going on.

Mr Jim Wilson: My question to you then is, is county council, as it's currently structured, simply not working in terms of representation?

Mrs Cooney: It's certainly not working for the townships in the north. That is why we may need to look at dividing north and south, because if we can't be represented by the politicians, and we get outvoted and we're being trampled upon, it's only going to make matters a lot worse.

Mr Jim Wilson: Are you of the opinion that the south end, because it was forced to restructure, said, "Since we were forced to restructure, you have to restructure too?"

Mrs Cooney: I don't know what the reason is; I really don't know. But when we look at what's happening with the GTA in Toronto and the rural neighbours, we can suspect what might happen.

Mr Jim Wilson: One last comment: Because my riding encompasses south Simcoe and parts of north

Simcoe—because we do consider Collingwood and Wasaga Beach to be in north Simcoe for government purposes—I want you to know that not everybody in south Simcoe is trying to bully the north. In fact, politicians from Tottenham and Alliston will tell you that to this day they have nothing good to say about restructuring in the south end.

Mrs Cooney: So why—

Mr Jim Wilson: That's a question we're grappling with. We don't know exactly why.

The Chair: Final question, Mr Conway.

Mr Conway: Thank you, Ms Cooney, for a very lively and focused presentation. I don't know that Larry Pennell has ever had a more enthusiastic supporter in his long public life.

I look at the situation as you describe it and I think there is clearly a fairly substantial body of opinion that would support your contention that a lot of the rural townships, particularly in north Simcoe, have been not very well treated in this whole process and that the status quo may not be all that bad.

I have in front of me, for example, a scathing brief we got yesterday about life and democratic society in Tiny township. Now, if I were to believe what I heard yesterday from the Federation of Tiny Township Shoreline Associations. It's just one opinion, but I might conclude that the current state of democratic society in Tiny township, which I believe you would include in north Simcoe—would that be fair?—

Mrs Cooney: Yes.

Mr Conway: —is perhaps not as idyllic or as happy as we might be led to believe?

Mrs Cooney: I'm not familiar with Tiny township, but I know that since restructuring has been thrust upon us, there has been a lot of bickering and a lot of upset and a lot of people wondering what the future has in store for them. It seems to have accentuated any problems that have been dealt with in a civilized manner before.

Mr Conway: If you had to choose between the following two options, looking at this from your perspective in north Simcoe: (1) the status quo in some moderately altered form, but very moderately altered form; or, (2) a severing of the county of Simcoe as we now see it into two distinct units, one north, one south, of those two choices would you personally incline towards?

Mrs Cooney: I would think that nothing should be rushed into, as this restructuring process is being rushed into. I would have to look at them more carefully, but when I hear a recommendation for a smaller political unit to be divided, then I think maybe that has merit here, particularly in the light of the fact that we are very different from the south of Simcoe county, which is so close to Toronto.

The Chair: Thank you very much, Ms Cooney, for coming before the committee and also for bringing your map.

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COUNTY OF SIMCOE
RESTRUCTURING COMMITTEE

The Chair: Mr McLean, I'll just call the County of Simcoe Restructuring Committee, the chairperson, Ms Nancy Keefe.

Mr McLean: On a point of clarification, Mr Chair: Mr Owens said that Springwater said that the status quo was not acceptable. For the record, I've been informed by the administrator of Springwater that they did not say that and that the status quo would have been acceptable.

The Chair: Welcome to the committee, Ms Keefe. Once you're settled, please go ahead with your presentation.

Interjections.

The Chair: Order, please. We're here to listen to the representatives.

Ms Nancy Keefe: I wish to thank you for the opportunity to appear before your committee. We thank you for coming to our area in our beautiful Simcoe county. I am not here to in any way discuss with you the questions or the input from other people; I'm here to support the presentation of our restructuring study report to the ministry.

I thought maybe I'd just read this whole book to you; this is the executive summary.

The Chair: The executive summary?

Ms Keefe: No, I'm just being facetious. This happens to be the whole proceedings of county council when I was the warden of the county. Certainly, Al McLean would be quite familiar with that, because I'm sure he has one in his own library.

In June 1989 Simcoe county council initiated a study of the county of Simcoe to consider reorganization of the county structure in order to ensure that the system is fair both in terms of representation and providing services and that the county and its local governments are strong and effective now and for the future.

The study committee developed the terms of reference and a mission statement. Extensive public consultations and individual meetings with the local municipalities on three separate occasions provided valuable input into the study in the final report.

The final report was distributed on June 28, 1991, and on July 16 the county of Simcoe voted on the recommendations. I might tell you that each recommendation was voted on separately. It took two 12-hour days to do that. It was an extensive input, if you will, a debate on the floor. I believe that it was probably one of the most lengthily debated subjects in the history of

Simcoe county, the final report of the study committee and county council's recommendations with respect to the final report and any additional documentation considered appropriate. Interested parties, municipalities and public, had three months, until October 16, 1991, to send comments directly to the Minister of Municipal Affairs. People could also send copies to the county of Simcoe, which we received.

Most of the research undertaken in the first six months of the study related to the issues and their implications for service provision. The environment was discussed, the financial, the boundaries and sustainable development and seasonal residents, and we had priorities identified. I do not wish at this point to go any further into the report, because you certainly have it at hand. It's important for Simcoe county to be a viable county so that it may be able to compete in the economic world, not only for the economic-industrial aspect, the tourist aspect, but for the people themselves.

So I would conclude. I would just like at this time to say, I guess like some of the politicians who are sitting at this table, around as a group, I have been in local politics since 1979. I deliberately came here today to not be in my own municipality, because I am not waving the flag for anything other than the Simcoe county study for the whole of Simcoe county.

The Chair: Thank you very much. Mr Waters.

Mr Daniel Waters (Muskoka-Georgian Bay): Nancy, nice to see you.

Ms Keefe: I'm not sure it's nice to be here, but—

Mr Waters: Well, I think we all have other things that we'd probably like to do off and on. I know that you've been part of the Simcoe county restructuring ever since it started and you've been very active. I know that probably better than other people around the room from our conversations, both formal and informal. But I've heard a lot about these votes and about the north being opposed to restructuring. It's my understanding that from in particular the last vote, indeed a number of the representatives of the north voted for restructuring, if you could expand on that, because I think there are some misconceptions out there.

Ms Keefe: I do believe that when we're talking about voting, it's not like some levels of government where you don't have free-will votes. We always have free-will votes. You're free to do and vote any way you wish to vote. Yes, there were in the north people who in fact voted in favour. Now, if you are aware, the first vote, those two 12-hour days that we did were favourable. We then were asked by county council if they could, to reassure themselves, have another vote. We had that vote and it came more in favour of restructuring. So when I say that, there was every opportunity for the county council to make their second decision on how they wanted to vote.

I've heard discussion today on the plurality vote. Al McLean was the warden of Simcoe county. We've always had plurality votes. As a warden, if you were unhappy with that then—and I'm with you as a warden—we should have been discussing that and making some decision on it. This is in fact the first time I have ever heard a discussion on the plurality vote because of the issue, and I believe that if the decision, if you would, should come out of the act, should come to the county to make that decision, I could live with that.

Mr Waters: Going along with the restructuring, do you feel that the basis of Bill 51 is good? It's my understanding the county sort of set down the guidelines for that.

Ms Keefe: Yes, I do.

Mr Waters: And things like section 34, there's been much discussion; in fact, I believe Mayor Laking indicated yesterday that it wouldn't be the end of the world if that were to disappear from the bill. So with some minor amendments like that, do you think it will work for north Simcoe?

Ms Keefe: I must say that I really am disturbed when I think about ever even thinking of splitting the county into north and south. I have a lot of difficulty with that, because once that happens, if it ever happens, the county will become—our heritage will be as if somebody took a great swath right through the centre of it and separated us from each other. Simcoe county has a wonderful heritage, and the protection of our county is what I think this is about. It's the protection and the ability to be able to say to big, ugly Toronto, the GTA, that in fact we are viable and we are strong and we do have our principles and we do have our economic balance. That is why I would never want to see that happen.

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Mr Waters: Can I have just one very quick one? I've been a good boy for two days now. The very quick question is this, Nancy: The fact that we have had Bill 51 and the second reading and it's out in committee, and maybe to the public it's been a hurried process, but in your opinion, is that being driven by the county and the representatives of the people at the county level or is it being driven by MMA?

Ms Keefe: Let me make it abundantly clear. This is Simcoe county's study. We own it, we voted on it, we accepted it and we passed it on to the province. That is a fact. Never, in my opinion, will anybody, provincially or federally or anybody else, ever be able to say that this is not our study. We wanted it and we went through the agonies and the joys of getting it ready to be sent on.

The Chair: I have Mr Conway, Mr Wilson and the parliamentary assistant.

Mr Conway: Thank you very much, Mr Chairman,

and thank you, Ms Keefe. I have some hopefully quick, pointed questions. Matchedash and the new town of Tecumseth, how much in common do they have any more?

Ms Keefe: In common?

Mr Conway: I just ask the question because I see big, bad Toronto sprawling up, and what I used to know as rural south Simcoe is now looking more and more like it, you know.

Ms Keefe: We will always be rural, with a small scattering of towns, which are not very many, to supply the needs and services, the libraries, schools, the higher levels of education. We will always be that. I'm trying my best right now not to be parochial, because my municipality is in the north. I think that our strengths, in joining together in smaller units, will help us to be able to remain that rural.

Mr Conway: What do you say to people like Mr Thiess, a resident of Orillia township who was here this morning and who made quite a strong argument about his unhappiness with the way in which the boundary line was drawn to take that portion of Orillia township and tack it on to Oro-Medonte—what I think he said, and I don't want to misrepresent him, but he left me with the impression—for no apparent reason, for no good reason.

Ms Keefe: In the process, if there was to be discussion with any boundary change, it was to be between the municipalities that were affected. So in their wisdom, if they couldn't come to a conclusion, then it wouldn't happen. So we did not enter into that.

Mr Conway: Ms Cooney just finished telling us in pretty direct tones that, in a way, the whole thing was cooked against many of the rural northern townships because when you look at who the county put on the committee, there weren't very many representatives, if any, from a number of those townships that are going to be very severely affected as a result of Bill 51.

Ms Keefe: I did not sit on the study committee until I became warden of the county. I must tell you that I sat in 90%, if not more, of those meetings as an observer. When I became the warden of the county, I automatically went on the committee and then became the chairman. I don't feel that there was any problem with the makeup of the committee. It was voted on and accepted. The only person who was appointed was the warden of the county.

Mr Conway: A final point that was raised yesterday by a number of presenters might be passing strange: that the cities of Orillia and Barrie were uninvited or allowed to leave the scene, as it were, as the process developed. Do you have any comment about how we can be looking at any kind of restructuring of Simcoe county that does not involve, to a greater degree than this process apparently did, Barrie and Orillia?

Ms Keefe: I think the cities of Barrie and Orillia in fact will eventually resolve their problems with respect to their needs. I wasn't on the committee at that time but it became bogged down, and again the weight, if you will, or the numbers sitting on that committee—it was felt that it was better for us, as Simcoe county people, to design our own destiny, and so they were asked to—

The Chair: Mr Wilson.

Mr Jim Wilson: Nancy, I want to thank you for appearing before the committee and I want to say in a preamble that I truly respect you as a politician. You're one of the politicians who has been absolutely consistent with respect to restructuring. We may not agree—

Ms Keefe: That's right.

Mr Jim Wilson: —on all of the points, but I do want to say that for the public record.

Secondly, I want to say that I agree with you with respect to your comments that never should we allow a north-south split. I don't see that as a solution to our problems, mainly because I have a riding that encompasses a bit of the north and a bit of the south and I would not want to see it split.

You did mention you've been in politics since 1979. As you know, one of the complaints we've had has been about the process of restructuring. I guess I feel, as a provincial politician, because the final responsibility does lie with the Legislature to pass this legislation, that people very much feel disenfranchised from this process, they very much feel left out and they come to our offices often complaining that they can't or don't seem to have their views heard at the county level within the current structure of county government.

I'm just wondering, in the form of a question, why do people feel that way? You, in your brief presentation today, indicated some of the process. There have been public meetings but none the less people don't feel they've been heard. I want to give you the opportunity to explain how you view things at this point.

Ms Keefe: I really can't help you with the flood of correspondence or comments that you get. You'll know that local politicians and local people, if they feel that the next level of government is where they need to be—and I myself would crank on you as hard as I could if I wanted to get something done. I think that's the process we go through and I think it's something that we are able to—the freedom of being able to do that. The frustrations lead you to these things and everybody's at liberty to do that.

As I say, in our democratic way, and let it never happen that it ever gets changed, we can go close to our provincial people. We have always been able to pick up the phone and call anybody in the provincial government and talk to them. If that ever gets shut down we're in big trouble. The same thing happens at the county

level. But when you consider the makeup of a county council, of busy people who have livelihoods, their municipal politics and their county politics, it does take a lot of time. So this is one of the reasons why I think your door is always open, and my door is always open. That's why that happens. We appreciate the fact that this can happen.

Mr Jim Wilson: I appreciate it too, but you mentioned that county councillors are quite busy with the other responsibilities they also have to their own areas, the municipal councils and their livelihoods. It strikes me, though, that perhaps it runs counter to restructuring because we're giving more responsibility to county councillors. I think it's why the term "regional government" comes up from time to time, because people envision in the future that there will have to be a larger bureaucracy to deal with some of the new responsibilities that are being downloaded on to—

Ms Keefe: I think what you're going to find out in due course is that you'll get a different kind of politician who will have responsibility for the county that will make him or her much more responsible to the activities of the day in the county. This is what I believe it's about.

Mr Jim Wilson: Thank you. That's helpful.

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Mr Hayes: Ms Keefe, thank you for coming before the committee. There have been statements made here in this committee in regard to the province holding a gun to the people on county council, but of course no one has been able to really back that up or prove that that's been so. But do you at any time feel that the province has come to county council and said, "If you don't go through with this restructuring"—you know, you felt like you had the gun to your head, that you were forced to do it? This is what we are being told.

Ms Keefe: Are you asking me if I said that?

Mr Hayes: No, I'm not asking you if you said that. There are members of this committee who have made that statement. They said that others have said that to them.

Ms Keefe: Well, I've never said it. I have never said it and I do not use loose sayings when I'm in my political life.

Mr Hayes: I'm sorry, Ms Keefe. I'm not suggesting that you said it. There are members of this particular committee who have said that they were being told by other politicians—I'm not suggesting that you said it—that the gun was put to their head and they had to go through with this restructuring.

Ms Keefe: Mr Hayes, I'm really mystified when you would ask me that question, because I don't know what other people say, but I know I didn't say it, and I will also tell you—

Mr Hayes: Okay, I—

Ms Keefe: I mean, I'm really upset about that question. I'm sorry. But I will assure you that I did not say it nor have I ever heard it said.

Mr Hayes: No, I didn't suggest that you have said it. But did the committee ever feel that it would be restructured whether the county wanted the restructuring or not? I guess I would put it that way.

Ms Keefe: I think where that whole issue got off the rails is from the south end. I was on county council when that happened. That may have then happened there, but it certainly did not happen, as far as I am concerned, in my term as chairman. And I must say, recognizing of course that three governments—it's been a long process. We've been through three governments with this project.

Mr Hayes: There's been a lot of talk also about the south Simcoe restructuring. There are people saying that we can't show whether there was any benefit to it, if it costs the people more. There are people saying that after the south Simcoe restructuring there was no—really, it doesn't prove that there are any benefits or it's going to cost people more. Could you relate to that?

Ms Keefe: I guess my professional life, in my other life besides politics before I retired from it, in economic development, told me—in economic development and in my career—that in fact what we were doing was the right thing for us to do. I believe that my educational background, my life for 20 years in economic development, prepared me well for working on this project, and I believe it's the right thing to do.

Mr Hayes: Okay, thank you.

The Chair: Thank you very much for coming before the committee this morning. We appreciate it.

Ms Keefe: Thank you. It's my pleasure.

TOWNSHIP OF RAMA

The Chair: If I could then call upon the deputy reeve of the township of Rama, Mr Dan McMillan, who is the next presenter. Mr McMillan, we have received a copy of your brief. Please get some water, and once you're all set, if you'd be good enough just to introduce your colleagues and take time to get settled. We welcome you all to the committee this morning and appreciate your coming.

Mr Dan McMillan: My name is Dan McMillan, deputy reeve for the township of Rama, and a member of the transition committee for the new township of Ramara. The committee is comprised of all members of council representing both the Rama and Mara townships. I am here as a representative of Rama council, accompanied by Councillor Bill Knowles, Councillor Kathyann Johnston and Clerk Bonnie Yateman.

I wish to address the proposed amalgamation between the townships of Rama and Mara and some of the concerns which our council wishes to express to you and others which have been expressed here today;

examples, general comments, section 34 and section 43.

The township of Rama, from the start of this process, has requested status quo for our municipality. In 1991, in Rama township, a referendum was put on the ballot asking the question, "Are you in favour of boundary changes combining the townships of Rama and Mara and the form of regional government proposed by the county of Simcoe restructuring committee?" with approximately 90% of the electorate voting no.

Approximately 20 years ago, Rama and Mara townships were members of Ontario county when it was being restructured and called regional government. At this time, Rama and Mara opted out of Ontario county and became part of Simcoe county. As we can see from hindsight, this was a very clever political and financial move for the ratepayers of both Rama and Mara townships. This has proven once again that bigger is not always better.

However, when it became apparent that this status quo was not an option, the council for the township of Rama worked diligently towards creating a well-positioned and workable environment for the new township of Ramara.

The financial impact of this process has never been clearly defined to this municipality. In the early stages of the process, it was indicated that the property taxes in Rama township would decrease by approximately 3% and Mara's taxes would increase by about 1%. In the spring of 1993, we were told the opposite by the Ministry of Municipal Affairs and that further information would follow to explain this. No explanation has been received at the present time.

On section 34: The council of the township of Rama feels that section 34 should be deleted from the bill, as this is already covered under present legislation.

Reeve Tom Garry of Mara township spoke to you earlier today about subsection 43(20), one vote only, and Mara township's concern over the effects of this section. The township of Rama was never advised of Mara's request for a plurality of votes and feels very strongly that when January 1, 1994, arrives and the corporations of the township of Rama and the township of Mara are dissolved and the new municipality is formed, all council members will be there for the representation of all the ratepayers as a whole in the new municipality of Ramara, not just, as Reeve Garry indicated, 10,087 electors from Mara and 3,160 electors from Rama.

I would also like to point out to the committee that the total number of electors from Mara township includes approximately 4,300 electors in one time-share facility, who only have ownership for a specified limited period of time each year. These people do, however, have the right to vote in the municipal election.

In previous discussions with Mara township, it has been ascertained that in the past two elections, only approximately six of the time-share electors in total have voted in both elections. This was discussed in great detail and reflected in the ward boundary determinations. Due to the fact that about a third of the total electors of the new municipality of Ramara will be represented by these time-share persons, any reference to percentages of eligible electors is grossly misleading.

The transition committee for the township of Ramara has worked under the one-vote-per-member rule from the onset of the meetings, which have been going on for approximately 20 months. In that time frame, we have made the following progress: the name of the new municipality with public input, the organizational structure, all staffing of the new municipality, ward boundaries, administration facilities and locations, major expenditures, quotations for outside services have been called, and integration of all township departments.

Although the transition committee has no legal status, the council of the township of Rama has adopted the proceedings of the transition committee as the proceedings of Rama council, although this has not been done by our counterparts in Mara. What will happen to all the decisions and accomplishments which have already been made under this approach if the legislation is passed allowing weighted votes?

The transition committee has followed provincial guidelines in Making It Work and has made some very crucial decisions, some of them not popular with some members of staff. The general ratepayers appear to have no problem with the decisions as made.

All through this process, the transition committee has compared this amalgamation between the two townships as a marriage, with the shotgun wedding set for January 1, 1994. If one half of the marriage has more say than the other, then it is impossible for it to work.

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In closing, the members of the township of Rama council and future members of Ramara council feel very strongly that all ratepayers must be represented equally by the new 10-member council in the pre-election period, and any variation from the one vote per member of council during the pre-election period is totally unacceptable.

Myself and my members of council feel very offended by the remark that Mr Hayes made earlier, the statement that the committee would look favourably on plurality votes. Thank you for allowing me to make these comments.

The Chair: Thank you very much for your presentation. We'll begin questioning with Mr Conway.

Mr Conway: Thank you, Mr McMillan and colleagues. It sounds like Ann Landers may be busy for the next little while around parts of Simcoe county, because

this marriage looks promising but not entirely without stress.

I want to just look at your submission at the bottom of page 10 and 11, "We have made the following progress," that list of items. It does appear that a lot of good work has been done here. I'm not from anywhere near Simcoe county. I come from Renfrew, which is a big rural county—more rural, certainly, than most of Simcoe, and certainly not as well-off.

I'm interested just from the point of view of the average citizen now looking at—this is, I think, one of the very few presentations we've had that's been as specific as you have about the work that you have done together as two municipal corporations coming together as now the new township of Ramara.

So I'm a citizen and I live in either one of the old townships of Rama and Mara and I'm probably listening and hearing, "All right, so we're going to have a reorganization and we're going to streamline government." The impetus for that probably is coming more from someplace else than it is from the local community, but we understand; we've been through some of this before. So it's 1993 and I'm a bit concerned—I'm more; I'm very sensitive and concerned about costs and bureaucratic structures and everything else. If I went to the inaugural meeting or I just went to a meeting today down in what is to be the new Ramara and said, "So explain to me what you've done"—you had two structures, presumably; you had two municipal organizations. Let's just look at the one, staffing. What have you done? Is there any kind of reduction, or has there just been kind of a fusing of everything that's there?"

Mr McMillan: On the staffing issue, all our departments are set up. The structure is in place. The department heads are all in place and they're in the process of getting their support staff in place at the current time.

Mr Conway: Let me be more specific than that. You both have municipal offices.

Mr McMillan: Correct.

Mr Conway: So let's say today if I take the two budgets for running just the municipal offices in Rama and Mara. Let's just say, for the sake of argument—this may not be at all accurate—that those budgets are, say, half a million dollars each. That won't even be close, but let's say they are. If you put them together today, those costs are, say, \$1 million. Under the plan that you've worked out, say six months, let's say in June 1994, will the costs for those same services in the new township of Ramara be \$1 million? Will it be \$900,000? Will it be maybe \$1.2 million?

Mr McMillan: That's unknown to us at this point in time.

Mr Conway: Guess.

Mr McMillan: What it's going to cost in the near future is still under—as the fact-finder said yesterday in

his opening speech, we would not reap any benefits for three or four years of restructuring. It's going to cost money for that.

Mr Conway: I understand that, but I want to you now to guess. Guessing in your business is probably very dangerous because you're all, I think, elected officials. But you see my point. I'm just a citizen and I live in one of your townships. I'm just looking at, this is all good work, so I wonder, is this going to save me any money? Is it going to cost me? In the new township of Ramara, am I going to end up with a lot of layering that wasn't there before and that is going to drive, say, the per-unit administrative cost in the new Ramara well above what, let's say, the costs were separately in the two previous townships?

Mr McMillan: I would say that it would go up, would increase. As is indicated by the MMA, Rama's percentage of taxes would go up by 1%.

Mr Conway: You've got two clerks presumably, right?

Mr McMillan: Correct.

Mr Conway: So what's the agreement for the new Ramara? Do you still have two clerks? Do you have a head clerk and a deputy clerk?

Mr McMillan: We have the department heads in place. We have a clerk, deputy clerk, treasurer. All the staffing is placed for department heads. That is agreed by the transition committee, even though we have no legal status.

Mr Conway: But you've now got a clerk in Mara and a clerk in Rama, right?

Mr McMillan: Correct. Mara has an administrator.

Mr Conway: All right, whatever. Have you decided what you're going to do with—in my experience in government, and I've been around the Legislature for 18 years, these are the things that just keep you up at night and cost more money than most people could ever imagine. You've got two people all through this thing doing this. You're bringing them together. My experience is that you end up with two people, that you don't ever end up with one.

Mr McMillan: There has been no reduction of staff in the staffing of the new municipality.

Mr McLean: Is there going to be a new office building?

Mr McMillan: Not at the present time. We have secured a land option from the county for some land for a new administration building some time in the future. At the present time, we'll be using Mara's present facilities, from January 1, 1994.

Mr McLean: So in the future you'll be able to tell the people their taxes will be lowered.

Mr McMillan: Pardon?

Mr McLean: In the future you'll be telling the

people their taxes are going to go down because you're building a new administration building, right?

What do you have to comment on with regard to, you said there are 4,300 people who live in Lagoon City. Is that part of Mara's population?

Mr McMillan: Yes, it's considered part of their electorate. It's a time-share facility.

Mr McLean: Did you indicate somewhere here there are only six votes, or 6% of them voted?

Mr McMillan: No, there were only six votes in the last two elections. We were given that information when we were drawing the ward boundaries. It's a time-share facility.

Mr Conway: Can I ask a supplementary on that, Al?

Mr McLean: Yes.

Mr Conway: The population stats that we got from one of the presenters yesterday shows the township of Mara in 1988, the data, 4,226. Is Lagoon City—I'm just trying to understand how many—

Mr McMillan: I think that's permanent residents.

Mr Conway: All right, permanent residents.

Mr McLean: You've heard some of the people here this morning talking about what's gone on with regard to the county restructuring. It was indicated, and the parliamentary assistant was trying to bring it out with Ms Keefe the last time, that maybe the wording has been changed, but some of us had heard from people who had indicated that if the county didn't restructure, the province would. Did you ever hear those remarks made?

Mr McMillan: Not specifically, but indirectly, yes, that it would happen the same with south Simcoe.

Mr McLean: Do you have any idea where they came from? Nobody seems to know who started them.

Mr McMillan: No.

Mr Bill Knowles: Rumours that float. You just hear them. I've heard them lots of times.

Mr McLean: Anyhow, I'm not so sure what—go ahead.

The Chair: We'll move on then to Mr Wessenger.

Mr Paul Wessenger (Simcoe Centre): Thank you for your presentation. I'd just like to get some information about Rama and Mara. Is it fair to say that this new municipality will not have very much in the way of commercial or industrial assessment?

Mr McMillan: Percentagewise, very low, yes.

Mr Wessenger: So this is really basically a pure rural municipality. What I'd like to ask you is that we've heard presentations sometimes by other presenters saying that municipalities are not viable unless they have an urban centre, unless they have commercial and industrial assessment. I'd like you to comment on it. Do you believe that's true, that all municipalities, to be

viable, should have a certain amount of industrial and commercial development? Do you feel that about your own municipality?

Mr McMillan: That we should have it?

Mr Wessinger: Yes.

Mr McMillan: Definitely we should have a certain percentage of it to make it viable. We have functioned in the past. Rama and Mara have both functioned in the past.

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Mr Wessinger: But you don't have enough at the moment. Do you have enough of that assessment at the moment to consider yourselves economically viable?

Mr McMillan: We have enough to survive.

Mr Wessinger: You have enough to survive. You indicated about the electors in the Mara situation being sort of substantially overinflated by using the time-share provisions. I certainly think that's a valid point. I'd just like to ask, would many of your electors be, say, cottagers and so forth?

Mr McMillan: About 45% of our people are seasonal people.

Mr Wessinger: Would that be the same in Mara too, do you know?

Mr McMillan: I'm not exactly sure of their percentage. A certain percentage, I'd say so.

Mr Wessinger: In determining your ward boundaries, did you look at permanent residents as sort of the basis for determining those ward boundaries?

Mr McMillan: All electors.

Mr Wessinger: You looked at all electors?

Mr McMillan: Yes. In the new ward boundaries, approximately two of the wards will comprise about 60% of the new municipality.

Mr Hayes: I'd like to get Mr Griggs to clarify the issue dealing with the interim councils on the voting for you, if you don't mind.

Mr Griggs: I just want to point out that if there is an amendment carried forward for multiple voting at the interim councils, it would be based on the number of electors, not on population, as it is with the county council multiple voting system. So where you have a concern that your seasonal residents wouldn't be taken into account, because it would be based on electors, as your wards are, it would reflect that in the multiple voting. It would be based on electors, not permanent residents.

Mr McMillan: I can understand, maybe, your position if there are three municipalities or more going in, but if we have two municipalities joined here, to give one more votes than the other just because—at the inaugural meeting, when we are sworn in for the new township, we'll take an oath to uphold the statute law of the province of Ontario, and that is to represent the

corporation of the township of Ramara, not just certain percentages of it

Mr Conway: Can I understand something on that point? Just forget all the seasonal stuff. I'm just looking now at these two: Mara and Rama. It's roughly three to one—

Mr McMillan: Correct.

Mr Conway: —Mara having three times as many permanent residents as Rama. What I hear you saying is that you really do not want, under any conditions, an interim arrangement for the new, that is the first year, the transitional year, 1994. You want no part of it and would strongly recommend against this committee recommending anything that gives a weighted vote for that first year for the new township of Ramara, right?

Mr McMillan: That's correct. We worked for 20 months as a transition committee on the rule of one vote, one member. If all that is changed, where you have a plurality of votes for the township of Mara, all that 20 months of work is thrown out the window.

Mr Conway: For those of us who are sort of neophytes in this, the concern is that this transitional structure with the weighted vote might allow some people to sort of cook the books—not cook the books; I take that back—to organize things in a way—

Mr McMillan: Definitely.

Mr Conway: —that might just—organize it in a certain kind of way. That's the concern, right?

Mr McMillan: Correct.

Mr Conway: All right. I wanted to be clear on that.

The Chair: Thank you very much for coming before the committee. The Chair normally can't ever say anything, but as you're from Rama, I just want to note that my great-uncle for many years, his name was Bob Morton, ran the general store in Longford Mills. As a kid, I think that was the most incredible, wonderful, marvellous place that anybody could ever have.

Mr McMillan: It still is.

The Chair: I just wanted to say that, having the representatives from Rama here. Thank you for coming.

KELLY CLUNE

The Chair: Our next witness is Kelly Clune. Welcome to the committee, Ms Clune. Please make yourself comfortable and go ahead with your presentation.

Ms Kelly Clune: I guess I should say at first, because I've heard some concerns from people living outside the city of Orillia, that this meeting is being held in the city of Orillia and it's in reference to restructuring, and there was some concern about that fact: Why wasn't it held elsewhere? I just thought I'd throw that out. It's a very interesting point.

My presentation focuses primarily on how restructuring affects waste management in Simcoe county. It seems that some people are convinced that by centraliz-

ing the control of programs in Simcoe county money will eventually be saved. So far, a great deal of time and money has been spent on the restructuring process, while many programs and services in the county are unattended to or left to deteriorate.

The fact that the restructuring process in itself is flawed is one thing, but considering that nine municipalities and their residents were opposed to restructuring, this is significant. In this time of economic restraint, we cannot be wasting our tax dollars on something people do not want or do not need.

The nine municipalities opposed to restructuring reside in Simcoe north. South Simcoe, then, is virtually restructuring the north. In the voting process on county council, the south can outvote the north due to its heavier population. This means that not only could we see proposals for quarries in north Simcoe being passed, but since Simcoe county was the first county to accept Bill 201, which gives the county the right to assume responsibility for garbage for the entire county, we could also see proposals being accepted to fill those empty quarries with waste from the entire county, and with free trade, who knows where the waste may come from next?

The county has already developed a costly compensation policy to determine new locations for landfills. North Simcoe, being less populated, will undoubtedly be determined a prime location.

Since the county took over waste management, we have seen millions of dollars spent and layers of bureaucracy built with little or no services extended in terms of educating the public on reduction of waste or offering reuse and recycling alternatives. The emphasis has been on disposal.

Ontario has a waste crisis. We must get away from focusing on disposal and concentrate on reducing, reusing, recycling and composting. People need alternatives to disposing of waste. They need to be taught how to reduce their waste and how to participate in the programs that are available, but few diversion programs exist and no education has been done in terms of waste reduction.

Imagine how much further ahead we would be in solving our waste crisis if the money spent on this restructuring process had been allocated to waste reduction and diversion.

By centralizing waste management we take the problem further away from the people. The only hope we have in solving the waste crisis is to involve people.

Municipalities must take responsibility for their own waste. By keeping it local and keeping it small the problem is far more manageable. We have seen Metro Toronto's garbage problem grow to insurmountable proportions. The crisis must now be solved with Band-Aid solutions which are not only unacceptable to those

less populated areas being dumped on, but more importantly, the solutions to the crisis will only prove to develop costly problems in the future in terms of health problems and environmental damage.

Although the city of Orillia has a representative on the county's waste management master plan steering committee, the city is not even politically part of the county. Knowing that only three years ago, Orillia representatives were prepared to sign a deal with a large incinerator company to deal with Metro Toronto's garbage makes people very nervous about this setup.

As with the city of Orillia's consideration for a massive municipal waste incinerator, the primary concern with the restructuring of Simcoe county appears to be economics, but our future economic situation depends on a healthy environment; therefore, the priority must be environment.

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As municipalities become responsible for their own waste, they will create local jobs while they protect the environment. They will realize that what was previously considered garbage is actually a useful resource which, when properly managed, provides jobs and revenues.

Municipalities working together can coordinate diversion strategies and determine materials which create environmental and financial difficulties, and they will work together to find alternatives or they will work together with other levels of government to ensure that those hard-to-deal-with products are eliminated.

The restructuring process to date has done nothing to help municipalities work together but has pitted them against one another. We now see municipalities scrambling to get a piece of the pie. The restructuring process will take away the voice of the local people. It's corrupt and it's undemocratic. Restructuring of Simcoe county has been a costly mistake and should end now.

The Chair: Thank you very much for your presentation. Are there any questions? Mr Conway.

Mr Conway: Thank you, Ms Clune, for your submission. I think you make some very telling points around a key issue that I see is putting an enormous pressure on municipalities and citizens everywhere in terms of their governmental structures at the municipal and perhaps even at the provincial level, because in my area, the county of Renfrew, 36 municipalities, many of them very rural, the thing that's killing them is the cost of waste management. I accept a lot of the criticism that you've levelled and I suppose one of the questions I have is, what do we do to create a more fertile ground for some of the new ways? I think I know what you're saying, and I'm inclined to agree with a lot of it. My problem is that I'm not so sure the public I represent is anywhere near me yet on that. Let me just ask that question initially. I think you're right in many respects, but I'm not at all sure that in our democratic society

public opinion is yet on your side.

Ms Clune: In terms of managing waste and dealing with waste issues? Well, it certainly becomes very much a public opinion when we go to rural communities and say: "This is where we're dumping Toronto's waste or this is where we're going to dump all of Simcoe county's waste. How do you feel about that, people living in the rural communities?" So then you realize that people do have an opinion on the issue.

Mr Conway: In my area, Ottawa, as long as it's Toronto, as long as it's the big, bad city versus the rural countryside, I am not at all worried—well, I shouldn't say I'm not worried. I know how that dynamic is going to play out, but forget that. I look at some small rural townships that I represent, and probably Mr Waters could maybe help me here; they're much more like Matchedash than most other places in Simcoe county. Oh, Dan's gone. Forget all the city stuff. I'm sitting here looking at rural townships maybe in north Simcoe. I'd be interested to know, for example, what Matchedash does with its garbage. Does it deal with it locally or does it have an arrangement with another township?

Ms Clune: Simcoe county has taken over all waste management issues.

Mr Conway: Anyway, the point I want to make is that when I sit as a provincial member for my area, one of the things that is really going to pressure people into different kinds of structures—it may not have to be formal; it may be just on a contract kind of basis—is the cost of waste management.

Ms Clune: So waste reduction is the ticket, and municipalities need to express that to their residents.

Mr Conway: Exactly, but if you're a municipal council in an area of 500 or 800 or 1,000 people, and particularly if you've got cottagers around—I go to the landfill in my very rural township and I just watch what goes on there.

Ms Clune: That's when local municipalities get serious about waste issues.

Mr Conway: Well, it gets serious but it gets very expensive. If you're a township of 400 people and you've got a long parade of seasonal folks who are living under a different kind of regime in city X, where there are a whole series of things they can't do, then the temptation becomes, "Well, let's put it in the car or the truck, and when we go up to the cottage on the weekend, pay a little visit to the landfill." You and I would both agree that this probably shouldn't be allowed, but to make it not happen, I've now got to start incurring costs, I've got to hire my friend McLean and put him out there, gate the landfill and I've got 400 people. Boy, all of a sudden, the cost in my little rural township is going up. Then, to make matters worse, even with a much more progressive reduce, reuse and recycle regime, I still have a certain amount of landfilling. My

old landfill is no longer viable. Now I've got to go and find a new one.

Ms Clune: Yes, and that's the idea of municipalities working together, and if you're talking about costs, I think all you need to do is look at how much Metropolitan Toronto's spent on hunting for landfill. If they spent more money on waste reduction and educating people on how to make use of programs—

Mr Conway: I don't want to talk about Metro. I know all about that.

Ms Clune: I'm talking about Metro because you're talking about the big cost of—

Mr Conway: I want to look at just little—Metro also has been big and wealthy. I'm talking about little rural townships that are small and not very wealthy, just as they try to organize themselves in a much more progressive world now, but we're doing a—

Ms Clune: They're incapable of organizing a waste management program?

Mr Conway: No, I'm not saying that at all. I guess all I am saying is that I think you make a good point, but from my vantage point I see the waste management pressure as probably the single biggest pressure in my part of the world that is driving people, both as citizenry and as elected officials, to contemplating some new arrangements because the cost of whatever we do now is really getting—

Ms Clune: And that is my point exactly. I think restructuring has everything to do with waste management. I think it's corrupt and I think it will cost people a lot of money, and by centralizing garbage we're looking for very costly problems for the future.

Mr McLean: Welcome to the committee, Kelly. Section 35 of the bill indicates that once it becomes law, the county can direct its garbage disposal to go to any one of, I believe, the 17 sites that's approved now. As it is presently, only the minister can direct that, but this bill is going to change that now. The county can close 10 of them if it wants to and only have seven open in the county if it wants. Are you aware of that?

Ms Clune: Yes, and I'm aware that the south outvotes the north and I'm aware that the north is likely to be the one they're going to designate as landfill or incineration or whichever those committees decide is appropriate, which neither is, as far as I'm concerned.

Mr McLean: For some time I was hoping we would have in the county a pilot project with regard to a major facility to recycle the waste we have, and I know you've been involved in that for a long time. Do you think there's any chance that this type of thing could be brought forward?

Ms Clune: I think the answer lies within the local municipalities becoming responsible for their own waste. When they do that, they realize what's being created, they realize what products are a problem and

cannot be dealt with and they work to eliminate those products or find alternatives to them. When we look for a megaproject, when we look for a massive recycling facility to deal with all of Simcoe county's waste, we're looking at a problem; we're looking at something that's going to cost a lot of money. You're going to get contaminated materials from all over the place and they're going to be hard to deal with. It's going to be a very big mess. If you keep it local, people become responsible for their products. They become proud of the facility they've got. They keep their jobs local. The revenues from the resources come back to the municipality. Soon, I really think what will happen is that you will find municipalities will want to maintain their garbage within their own community. It will be a resource which will provide jobs and revenues for the municipality and we won't be looking at trying to dump some garbage on our neighbour.

Mr McLean: But that's not the way it is now.

Ms Clune: That's not the way it is now, but it takes us all working together to achieve that goal.

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Mr McLean: But Bill 208, which the government legislated, gives the authority to the county to look after it.

Ms Clune: Bill 201, yes.

Mr McLean: So once it's in the county's hands, that's your waste authority. I can assure you there's no municipality that wants to take that back out of the county, because the county wants to keep its hands on it.

Ms Clune: I'm sure they do, because there's lots of money to be made for a few people, which is unfortunate. I think we need to get rid of Bill 201 quickly.

The Chair: Ms Clune, thank you very much for coming before the committee and in particular for focusing on that one issue which we haven't heard about in quite the same detail. Thank you for coming.

EDWARD CARTER

The Chair: If I could then call Mr Edward Carter, if he would be good enough to come forward. Mr Carter has a map which the clerk will circulate. Mr Carter, welcome to the committee. I see you have a colleague with you, if you'd be good enough to introduce him as well. In just about 10 seconds we'll all have a copy of your map.

Mr Edward Carter: My name's Edward Carter and I live on lot 21, Concession 1 of the township of south Orillia. Assisting me here today is Mr Gordon Blair, who's also a resident of that area.

I'd like to speak to Bill 51, part I, section 2, paragraphs (j) and (k); sorry, (j) and (o).

These are the paragraphs that refer to schedules which unfortunately I don't have. They weren't part of

the bill but I presume that they refer to the area that's marked in blue on the map that has been handed out. It essentially comprises concessions 1, 2 and 3 of the township of Orillia, the southern division, which are to be transferred out of the township of Orillia to the township of Oro.

I'd like to submit that these lands have a historical focus in the city of Orillia because of their proximity and because of the nature of the growth of the community. Residents of this community, outlined in blue on the map, use all the types of services and facilities that are required and necessary to the people living in this community. They're all focused in the city of Orillia, facilities such as schools, which is where our children attend and that's where they get bused to and where they form lifelong friendships. So right from a very early age they do get a focus in the city of Orillia.

Most of the people in this community do their shopping in Orillia; they work in Orillia; they use the library in Orillia; they use some of the recreational facilities in the parks. The cultural facilities and events such as the Orillia Opera House and the Leacock festival are supported by the members of this community. Mr Blair himself is an example of somebody who is deeply involved in those types of things.

The service clubs and their ancillary fund-raising: Mr Blair is also a member of the Golden Key and runs one of the fund-raising events on a weekly basis in Orillia.

Our charities, such as the cancer fund and the Heart and Stroke Foundation of Ontario and all those myriad things: The members of those places come out—not all of them, but the people in this area are people who participate in those types of things.

The hospital: When the ambulance comes for you, he takes you to the city of Orillia, not to the city of Barrie. The people on the board come from this area in blue.

Fund-raising: If people in this area wish to make a donation to a hospital, they make it to the Orillia hospital, not to some other hospital. We use the doctors, the dentists and the pharmacists so that all these emergency facilities are there.

Our garbage goes to the city of Orillia and the next one is probably going to end up in the rural area surrounding Orillia. Our automobiles, when you call for the tow truck—he comes from the city of Orillia. We buy our vehicles in Orillia usually.

In other words, the residents of this area, when they think in their minds, they think north. They don't think going south, they think north.

In fact, the residents of the township of Orillia, and particularly this area, have cooperated with the city of Orillia and recognize that the city of Orillia is the focus of the community. They've gone so far that in the official plan for the township of Orillia, for the last 24 years or so, the area that's marked in yellow on the map

has been designated as an urban expansion area for the city of Orillia. As a result, there is no development going on in there and this area is being preserved as a place for the city of Orillia to expand and that's been in the official plan of the township of Orillia for well over 20 years. Recent annexations, which have actually taken place more to the north of the city, have been worked out with the township in such fashion that they don't require expensive hearings, one thing and another, and the township's always been very sensitive to the status of the city of Orillia as the focus of the community.

It would appear to me that the recent Sewell commission would indicate that we're to look forward to more dominance of the urban areas and that development is to be channelled into those areas. You can see here that just by the location of these lands, they are in essence under a great deal of influence from the city of Orillia.

From that standpoint, I feel it's a gross error to take these lands and turn them around and add them to a municipality whose focus is south. Now, when the city of Orillia wants to do something, it's going to be dealing with somebody whose focus is in a totally different direction and always has been. I would think it would be much more logical to leave this area with the township of Orillia so that in the future the city of Orillia can expand without having to get into a totally different type of thing.

I'd like to speak also about a petition which was sent to the Minister of Housing on November 4, 1991. Mr Blair and I, after talking to many of our neighbours and seeing what was being said in the community, wondered if we were kind of on our own or whether the people of the community felt the same way. So we undertook on our own to circulate a petition throughout the community. It went to about 1,100 residents and out of that we got 635 replies, which is a 58% return on those petitions. A 58% return on anything like that—most of them were done by mail or by handing out, stuffing in people's mailboxes, one thing and another, and then they had to mail them back or forward them back somehow. Each of those petitions was individually signed with the date and lot and concession number in which they lived. Out of those 635 replies, 100% of them were in favour of leaving these lands with the township of Orillia.

1120

I'd like to read the minister's letter:

"Thank you for your letter of November 4, 1991, forwarding petitions from citizens concerning the recommendations of the Simcoe county study relating to the township of Orillia. You are to be commended for your efforts in providing this information for my consideration.

"As indicated previously, I will be carefully reviewing the study committee's report and the recommendations made to me by county council. Before making any

decision, I will also be considering the views of local municipalities, the cities of Barrie and Orillia, and the public."

I would submit that the final report does not consider the view of the local municipality nor does it consider the view of the public as forwarded to the minister. That was signed by Mr David Cooke.

In my letter when we forwarded the 635 petitions to Mr Cooke I said, "In fact, we believe that the citizens most affected by this proposal are the least to be consulted." I must commend this committee for at least, at the last moment, coming in and asking for consultation with those who wanted to express their views.

In that petition some people sent us a donation to help us with the cost of doing that because Mr Blair and I funded the cost. So much money came back that there was a surplus, which indicates that people were really serious about this. We donated that money to the heart and stroke fund because I think that's the fund the residents of this community are most going to need if they are cut off from their historical roots.

I'd also like to refer to subsection 43(11), which appears, I believe, on page 30. This gives the composition of the township of Oro and Medonte after restructuring. Nowhere in there does it ever refer to the residents of the township of Orillia or, if restructuring goes through, the former township of Orillia that is included. This means this area in blue will have no elected representative for a period of over a year.

Clause 44(2)(e), which appears on page 33, requires the municipality to set up a ward structure, and the people who are to set up this ward structure are the people of the townships of Oro and Medonte, but nowhere does it give the people of this portion of Orillia south a word in how they are to be governed in the future. In other words, I think we've been forgotten. I submit that a long-time tenet of the democracies in North America and throughout the world is that there's no taxation without representation. I believe something definitely should be done with respect to that.

In summary, I'm asking that the lands outlined in blue in concessions 1, 2 and 3 of the township of Orillia south be left with their historical roots, which is the township of Orillia with their emotional and economic focus in the city of Orillia. That is the way it goes.

We ask that serious consideration be given to the wishes of the people of this area, as reflected in the petition that has been in the minister's office since November 1991. I would submit that this amounts to a straw vote of the people in this community.

In the event that our request is not granted, then please ensure that our rights to representation are considered. As the matter now stands, the historical and social development of this area will be destroyed for generations to come because we're going to be taken

around and turned 180 degrees and that creates an emotional disruption in our lives.

I would also submit that this province has more urgent matters to attend to than restructuring. This province needs to put people back to work and I think that by fiddling here, which is about all that has been done because there is very little rate change, other than disrupting people's lives—but I would suggest that this whole proposal of restructuring just amounts to fiddling while Rome burns.

The Chair: Thank you very much.

Mr McLean: What you're telling the committee here today, sir, is that the Orillia fair grounds and all that whole area is going to be now in Oro township, according to the drawings.

Mr Edward Carter: It would appear that way.

Mr McLean: I'd like to ask the facilitator, how did this change from Orillia to Oro?

Mr Griggs: Again, these were recommendations made by the study committee to county council. County council endorsed all of the recommendations. It was a local process directed by the county study committee, elected from the floor of county council. All the recommendations were endorsed by county council.

Mr McLean: But who drew the lines?

Mr Griggs: The county study committee did.

Mr McLean: Under whose advice? I thought they said that the two municipalities would have to make an agreement and I'm sure—I know—that Orillia township didn't agree to have this go into our township. So who's telling who what's gone on? This is totally unacceptable. It's totally wrong. Common sense would tell you that it should have remained in Orillia township and here we have it in Oro. Do we have the power, as a committee, to change that, Mr Parliamentary Assistant?

Mr Conway: While you're contemplating that, because Ms Keefe, who was just here, is with the County of Simcoe Restructuring Committee, and when I asked her the question, she seemed to give a thoughtful answer which seemed to suggest—I don't want to misquote her—I got the impression that she and her committee didn't seem directed. I'm with Mr McLean on this one particularly. This is the second or third minute we've had on this point.

Mr McLean: Mr Thiess's whole presentation was on this very issue. Orillia township never, ever agreed to that, to be part of Oro township, so how could you say that, and nobody's saying who drew the line?

Mr Hayes: I don't know. The restructuring committee, the county council—we already have that answer. All I can say to you at this time is that we can look at it, but I think the one thing is that I guess one of the problems we're faced with is that if you get all of the township of Orillia and the county and those to agree,

it could be changed in that way. I know what you're saying, Al, that it won't, but I'm not quite familiar enough with this and I'll—

Mr McLean: Well, I'm familiar with it.

Mr Hayes: I know you are and I appreciate your comments.

Mr McLean: I was told before that it had to be by an agreement and I took it upon myself to phone the reeve of Oro to ask if he would consider discussing it. This council said that it was not. That still doesn't make it right.

Mr Hayes: Yes, if Mr Griggs could respond to that.

Mr Waters: Might I suggest something then for us to look at in clause-by-clause, some sort of an amendment to try to deal with this. I know that Mr Wilson, Mr McLean, Mr Wessinger and I—one of the things we had said when we had our meetings with MMA was that yes, the county wanted to be through it by January 1, 1994, but we wanted to make sure that we did have an opportunity to make amendments and to personalize this for north Simcoe.

The ministry, as I recall, said it was more than willing to accept those amendments and look at those and work that through with us. So I hope that on Thursday, when we're doing clause-by-clause, there will be amendment to reflect that and that we will indeed—I am assuming, because I know I have a couple of amendments I want to bring forward, that those things are indeed going to be dealt with in a fair and just manner on Thursday.

The Chair: On the same point: Mr Conway.

Mr Conway: An excellent submission, and it's now one of a number that deal with this very specific point. I appreciate what Dan has just said and what Al and the parliamentary assistant have said. I don't profess to know nearly as much of this as other people, but I'll tell you, I am very inclined to support that kind of an amendment unless someone can indicate, more completely than I've heard to date, and I just ask you, Mr Chairman, that if they're not—they may be coming, but I would like somebody to come and explain why we should not amend the bill in a way that is perhaps being suggested by this presenter and others. If Oro township or Medonte—there must be somebody out there who has fathered and mothered this change. I would certainly like to hear from them before I got an amendment, because if I were to get an amendment now, on the basis of what I've heard from Mr Carter and others, I would be very inclined to support it.

1130

The Chair: Just before turning to the parliamentary assistant, I know Mr Wilson and Mr Eddy have a comment on the same point, so perhaps we can deal with that before moving on.

Mr Jim Wilson: Yes. On the same point, Mr

Chairman, I think it's an excellent presentation, as have been a number of other presentations, with regard to how these lines were drawn. I think it would be appropriate, as Mr Conway has suggested, that we ask members of the steering committee to explain their reasoning for some of these boundaries. I know I've already asked legislative counsel to draft up four amendments regarding boundary changes in the south end, because although they've been restructured, they're not happy, and also with respect to Adjala and Tosoronto townships, and we've had, yesterday and today, more boundary changes suggested. I think that if those people don't voluntarily appear before this committee, we should ask the Speaker to subpoena them.

The Chair: Mr Eddy, on the same point.

Mr Ron Eddy (Brant-Haldimand): I think the way to clarify it is, if we're following the principle, and I agree with it, that there has to be agreement between the receiving municipality and the municipality giving up the area, we need to know that directly from an elected representative of the municipality. It's as simple as that.

The other thing, a clarification: I guess I'm clear on the point about no representation. That's because it's going into another township, just being added on, and until the next election that area doesn't have representation. That's your point, is it?

Mr Edward Carter: That's my understanding, and it would seem to me that these lines have been drawn by backroom brawls and dart games where they just throw darts at things, and once they've grabbed the land, then they forget about the people they're actually grabbing. So they disfranchise them, and that's not right.

Mr Eddy: And this could be true of any area that's being changed, I guess.

Mr Edward Carter: I haven't examined the boundaries of the other areas.

Mr Eddy: Okay. We'll look at it.

The Chair: The parliamentary assistant?

Mr Hayes: Just to that question about who drew the boundary lines, I think it was made clear here earlier by Miss Keefe, who was a member of the Simcoe restructuring committee. I think she indicated right here that those are the people on that committee who drew up the boundaries for Simcoe county. There's your answer: the people who were duly elected to do it.

The Chair: I want to thank you very much for coming before the committee. Clearly you have elicited a great deal of interest and this will be pursued.

WILLIAM C. COONEY

The Chair: I call on our last presenter for this morning, Mr William Cooney. If Mr Cooney would be good enough to come forward, welcome to our proceedings this morning, and once you're comfortable, please go ahead with your submission.

Mr William C. Cooney: "In a democracy, the highest office is the office of citizen." Those are words from Supreme Court Justice Frankfurter in the United States.

I am not representing any organization or particular interest. I am simply speaking here this morning as a citizen.

As humans seek to organize themselves into political or economic bodies, we often, in fact almost daily, hear of mergers and takeovers. After great debate, for example, you will all recall, Great Britain entered the European Community in search of larger markets. Similar groupings are being discussed, to say the least, for North America and for the Pacific Rim. Very large transnational corporations emerge continually, and this takes place both in, as we are well aware, capitalistic countries and it takes place in countries governed by socialism also.

Based on what is said and written—that's the only source I can get for information—the majority of economists and business efficiency experts supports this trend towards vastness in human organizations. Yet, in contrast, sociologists and psychologists insistently warn of the inherent danger: a feeling of smallness, the loss of integrity, as of a small cog in a vast machine, a fear of being dehumanized, and even dangers to efficiency and productivity stemming from bureaucratic inefficiency.

Modern literature, as well as TV, show at various times and places a picture of a sharpening division—this is a very general statement—between us and them, whatever the us and them may be at any one time or place, the us and them torn by mutual suspicions, a hatred of authority at times below, a contempt for people from above: on the one hand, people becoming sullen and irresponsible, while their rulers try to keep things afloat by more organization, more coordination, fiscal inducements, exhortations and, if all else fails, threats.

I don't know if you or anyone else really likes large organizations, being ruled by rule, where the answer to any complaint is, "I don't make the rules; I only apply them." Yet it seems evident that large organizations are here to stay. Therefore, we have to think, and navigate our course very carefully. It seems to me the fundamental task is to achieve smallness within the larger context of vast organizations.

When we see the working of a large organization, any one, we see a sort of pendulum effect going on. This is an historical process. The organization will go through phases of centralizing and then decentralizing. Part of the problem is that each of these phases can be backed by very persuasive argumentation. It follows that what we need is not an either/or approach but one and the other at the same time, and that is a difficult task.

Any organization, it's obvious, large or small, needs a certain clarity of purpose, a certain order in its dealings. If things fall into disorder, nothing will be accomplished. Yet orderliness, pushed too far, is sterile and lifeless. Humans need elbow room, scope to do things, to do things that have never been done before, the new, the unpredicted product of man's creative ideas.

So the pendulum swings from order to freedom and back. Centralization is on the side of order; decentralization is on the side of freedom. Accountants and administrators favour order. The man of freedom and progress is generally called an entrepreneur.

In a question, say, of national defence, most would agree it can be done only by a central and federal control. In education, however, we in Canada prefer a provincial jurisdiction, and even there the pendulum works. A trend towards centralization, bureaucracy, more administration is obvious in the area of education, and then, because of the higher taxes involved, we see a swing back to establish a more local voice and a more local control in the process.

1140

The British Coal Board, a huge organization, several years ago broke itself up into 17 distinct companies, each dealing with an individual coal face. General Motors sets up a variety of divisions and teams. Now, I've got to be careful here. The coal board is very remote from us; General Motors isn't. So I mention that word, not that GM is a good example of anything. I cite it here simply to give an example of the pendulum process at work. In fact, at another forum in another time, I would gladly take on General Motors for their bad practice.

These comments are simply a background for what I hope can serve as a solution to this problem of large organization, this pendulum effect. I use the word "solution" and not "answer," because I don't believe there are any answers. In English, normally we can use the words "solution" and "answer" interchangeably, but they're not the same. An answer is something I can swear to: two plus two, do you have an answer? A solution is much different. A solution is like dealing with a clogged drain. You apply a solvent. Life goes on in the household. The drain will get clogged again some time. So we're looking for a solution.

The solution I would suggest is this little word right here, in case you haven't seen it before in your lifetime. It's not a household word, but it is an extremely important concept.

The Chair: Just for the record, could you say what that word is?

Mr Cooney: Yes, it's the word "subsidiarity."

The principle of subsidiarity can be talked about, obviously, in many ways. I choose to make a quotation,

very brief, from Fred Schumacher's book, *Small is Beautiful*, and I choose this description of it because it is concise and clear:

"It is an injustice and at the same time a grave evil and disturbance of right order to assign to greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature furnish help to the members of the body social and never destroy them and absorb them."

These sentences were meant for society as a whole, but they apply equally to the different levels within a large organization. The higher level must not absorb the functions of the lower one on the assumption that, being higher, it will automatically be wiser and fulfil them more efficiently. Loyalty can grow only from smaller units to the larger, not the other way around, and loyalty is an essential element in the health of any organization.

The principle of subsidiarity implies that the burden of proof lies always on those who want to deprive a lower level of its function and therefore its freedom and responsibility in that respect. They have to prove that the lower level is incapable of fulfilling this function satisfactorily and that the higher level can actually do it much better.

"Those in command," to continue the quotation, "should be sure that the more perfectly graduated order is preserved among the various associations, in observing the principle of subsidiary function, the stronger will be the social authority and effectiveness and the happier and more prosperous the condition of the state."

From this it follows obviously, in my personal view, there is no satisfactory evidence that restructuring of north Simcoe is a good thing.

In the 19th century, there was a very common expression in the States, "If it ain't broke, don't fix it." I was amazed to hear this expression being chanted outside the offices in Midhurst at one of the restructuring meetings.

From an administrator's point of view, the present structure may not be as tidy and orderly as desired. However, the county as a whole may well be happier. Tidiness is not the supreme good. Nor is it our purpose in life, and certainly not mine, to satisfy bureaucratic dreams. And in the case of the most untidy form of government, democracy, Winston Churchill once agreed that it was the worst form of government, except for all the others.

Untidy as the present may seem, we expect our legislators to listen to the people of north Simcoe and reject out of hand, without fiddling around with amendments, Bill 51.

Just as a footnote before questions, last May I was at a meeting in Washington and had the opportunity of meeting Dr Robert Bullard, who wrote this little book, *Dumping in Dixie*, an intriguing thing. So I got talking

to him a little bit and mentioned to him there is a possibility of dumping going on in Nova Scotia and Newfoundland. He said, "Where are you from?" "Orillia." He said: "Watch out. The borders of Dixie will reach there too."

Interjection.

Mr Cooney: Schumacher: Small is Beautiful. I'm not selling them.

The Chair: Thank you very much, Mr Cooney, and also for introducing the word "subsidiarity." Any questions?

Mr Jim Wilson: Thank you, Mr Cooney, I found your dissertation to be quite interesting and cerebral.

You talk about tidiness and you talk about the bureaucratic desire to have things nice and neat. I think in a very real way you're correct, because as far as I can tell with two successive governments moving with restructuring, the south end and now the north end, it had to be bureaucratically driven. Why else would, for example, the NDP, who were totally opposed to forcing these sort of things when they were opposition parties—when Dave Cooke as Minister of Municipal Affairs gets into office, he's not in too many months when he decides restructuring is a good thing as long as it's locally driven. So we went into the jargon that it had to be locally driven, and eventually the county did locally drive it. At least we have the chairman, Nancy Keefe, here today telling us that without a doubt it was locally driven.

Outside of your presentation, though, and as a ratepayer in the county, how do you feel in terms of—and I can guess the answer but I want you to say it for the record. Do you feel disenfranchised at this whole process? Have you had any input to date? I'm interested in the process that we've gone through, and to me the process has somehow failed the people. I'm interested in your thoughts on that.

Mr Cooney: We have had input, but it hasn't been listened to. That is the problem. It's the process itself that is flawed, basically.

When Mr Cooke states that it's a locally driven initiative, I would like to see one letter to the editor from a concerned citizen or one letter in, say, Mr McLean's file, saying: "Al, now what we need around here is a little more restructuring. This is one of the things that the people here are demanding." I've never heard any indication of that. Is that a response to you—

Mr Jim Wilson: It's a good point. But the problem is, those in favour of restructuring would say to you, as they say to me, "Well, people only complain when they're unhappy, and those who are happy about restructuring just aren't speaking up."

Mr Cooney: Apparently, it's just the opposite. It's those who are in favour of restructuring who have been speaking out, voting on committees and making recom-

mendations. It's the ones who are opposed who haven't been vocal enough, I'm afraid.

Mr Conway: Just a quick point. I know you cite a number of American authorities, and I'm very sympathetic to people who, you know: "Just leave me alone. I don't want to be having to deal with all this change." If I had my way in politics, I'd say I don't want to change anything. But for that to happen, for small to be beautiful, small's got to stay small. I can't all of a sudden—you know, somebody invented electricity. Somebody invented the automobile. In the debates of the Legislature 75 years ago, "Well, just keep these cars off the streets because we've got buggies." But unfortunately, the politicians weren't able to keep the cars off the streets, and electricity came and a variety of other—and the world changed.

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It was Sam Rayburn who once said—I'm sure you know Mr Rayburn, legendary Speaker of the House of Representatives and one of the shrewdest and most-elected politicians in the United States. Rayburn once said, "You know, any jackass can kick the barn door in, but it takes a carpenter to build one."

I've spent most of my life in opposition, and it is an easier politics to just pick at the problems. But Rayburn made a good point. There is an important role for people in opposition to criticize the inadequacies of government, at whatever level, but at some point we do have to build a barn door. At some point, we do have to build some new structures to accord to and with the contemporary reality.

I remember the five and a half years I spent in government. I learned a lot of things in government I never even dreamt about in opposition. I never even imagined that some of the educational prospects of north Simcoe could be quite as complicated as they were, apparently. So the point I make, I guess, is that I like small and I believe it to be more beautiful than big. But the world has got to help me if we're going to keep small beautiful, if you know what I mean.

Mr Cooney: I know what you mean, all right. Nowhere in my little brief presentation did I suggest that progress is unimportant. In fact, I suggested very clearly that on the side of freedom and creativity, the entrepreneurial spirit, that's where you have progress.

What I was outlining is a pendulum, that the argument goes back and forth. I stated quite simply and quite clearly that there are very good arguments on both sides for centralization and for decentralization, and therefore follows, as night follows day, the necessity of careful thought. That's why I brought in the principle of subsidiarity as a way of breaking that logjam of coming up with better thought.

The Chair: Mr Cooney, thank you very much. I'm afraid we have one more presenter and then we have to

get to Midland. But I want to thank you very much for your thoughtful presentation.

Mr Cooney: Thank you.

WILLIAM HODGKINSON

The Chair: If I could then ask Mr William Hodgkinson, whom I omitted from mentioning, and he will be the final presenter. Mr Hodgkinson, if you would come forward, please. I believe the clerk has passed out your—no? Okay, we're getting extra copies.

Mr William Hodgkinson: Thank you, Mr Chairman, for the opportunity of appearing, and I do wish to thank Mr Arnott for clarifying that my call had been made to his department to be here today.

Gentlemen, as a taxpayer in Mara, I wrote to the Minister of Municipal Affairs, the Honourable Ed Philip, regarding my concerns on the Simcoe County Act, 1993. The minister replied on August 10, 1993. I appreciated his response, but my concerns were not adequately addressed; therefore, my appearance before you today.

First, my concerns regarding planning becoming a responsibility at the county level: Being a taxpayer in Mara and automatically of Simcoe county, I see no value in creating additional bureaucracy at the county level. While the minister's comments reflect some concerns, as residents bordering on Lake Simcoe, about the quality of the lake, preservation of our natural wetlands and good agricultural lands, I do not believe another level of bureaucracy at the second tier of municipal government is effective in dealing with these problems or concerns. They are too far removed from the people. It appears as one more way the provincial government is downloading its responsibilities.

I appreciate the minister's desire to have some body resolve land use conflicts, avoiding costly Ontario Municipal Board hearings. Setting up a planning department at the county level will only create another empire, additional costs for the taxpayer, and ultimately a dictatorial attitude by administrative executives.

Secondly, I recognize that the legislation provides a guarantee to all present municipal employees. What I fail to see is why, with the public sector and the federal government combining jobs, eliminating jobs, streamlining operations in an effort to be more productive and competitive, this policy should not also apply at a municipal level. After all, there is only one taxpayer and only so much ability to pay the increasing burden of taxes. In Mara, a breakup of the nepotism and the family compact would be welcome.

Third, it was refreshing to see the minister indicate section 33 does not give the minister the authority to change the city boundaries. That was probably the only thing in his letter that really pleased me.

Fourth, and this was since I wrote to the minister, section 43 of the act has been raised by Mara council

and appeared in the local media. Gentlemen, I am appalled that Mara council feels it needs weighted votes when Mara and Rama join to form Ramara. Each was elected to serve its respective constituents for the three-year term of council. We know each, as a corporate entity, ceases to exist at December 31, 1993.

These 10 people are the board of directors of the new corporation of the township of Ramara. In any other corporate setting, one director does not have any more powers than his counterpart. Therefore, it is ludicrous to even consider this proposal to be anything other than an undemocratic grab for power. Or is it a last-ditch effort to grab power and maintain the status quo? In that Mara council has not adopted any of the restructuring committee resolutions, it is an attempt for them to have their own way.

What was the sense of going through the restructuring process to have it all shot down at the 11th hour? What confidence will the people have in the new municipality with this type of procedure? Where is the trust? Where is the cooperation?

If Dr Garry, the reeve of Mara township, and Mara administration get their way in this respect, I would like to suggest that there will be a holy war start and this will be the first shot in the 1994 municipal elections.

Thank you, Mr Chairman.

The Chair: Thank you very much, Mr Hodgkinson. Are there any questions at this time? Mr Eddy.

Mr Eddy: Thank you for your presentation. You're not opposed to the amalgamation of Rama and Mara townships?

Mr Hodgkinson: Definitely not, sir.

Mr Eddy: You see that as a plus, having the two townships amalgamated?

Mr Hodgkinson: I believe, again, that if it has to come about, that is the logical combination. If we go back into the history, Rama and Mara were all one township at one time.

Mr Eddy: I wasn't aware of that. I knew that they were formerly in Ontario county, of course.

1200

Mr Hodgkinson: But they were all one township, the township of Mara, if we go back into the late 1800s.

Mr Eddy: You have 10 members of council, 5 from each at the present time, I expect, being a township council. So you have 10 elected representatives for the interim period. That means there could be a tie vote on any issue or even on every issue, I suppose. There are ways of breaking a tie, of course. That system is in use in county council. I believe it's on the election of a warden where there is a tie vote. The head of the municipality with the highest equalized assessment would have an additional vote in the case of a tie only.

Do you see the need for a mechanism because there

will be 10 people, an even number, sitting on the council for the interim period, or do you not see that as really a problem?

Mr Hodgkinson: I recognize what you're suggesting might be a problem, but knowing the members of each of the councils, I don't think that this would necessarily be a problem.

Mr Eddy: In other words, let the council work it out.

Mr Hodgkinson: Yes.

Mr Eddy: If it's an even number, they have to work it out.

Mr Hodgkinson: Eventually, they're going to be responsible for the way they work it out, anyway, to those of us who are taxpayers or electors in the new township of Ramara.

Mr Eddy: Thank you for coming.

Mr Hayes: Mr Hodgkinson, I know you've got some concerns about the county taking over, in other words, the planning or joint planning, whatever. I guess really what I'm saying here is that when one municipality, if there is a development there or a change in zoning, do you feel that this doesn't affect any of the other municipalities in that county? Don't you feel that there should be, not control, but a better structure so you can have planning so you don't have one municipality adversely affecting another?

Mr Hodgkinson: You basically have that in place at the present time, I believe, sir. Sure, not at the county level; it then is that of the province, but you do have that ability at the present time, and I don't understand why we need to shift that from the current situation into another group of bureaucrats and add an additional cost to every taxpayer in the county of Simcoe.

Mr Hayes: Yes, but if every township had their own planning board, for example, and just did their own thing, I think you would find that in changing that for county council there'd be less chance of going to the OMB, which can be very expensive. The other thing too is that you would have a whole picture of the county to have a more or less controlled type of development or a plan that would take in the whole county for the benefit of the county, including the municipalities.

Mr Hodgkinson: I guess in answer to your question, as a number of the other presenters have made today, we see the county bureaucracy growing—it's right out of control as far as waste management is concerned. I'm concerned that if this portion of the legislation goes through, we will be creating another Topsy at the county level and we're not going to be any better served in planning than what we are at the present time.

I realize that you have to have some overall strategy and some overall growth or potential growth or whatever, but I don't think the county level is the area to do it in. They're too far removed from the people, and

from what we have seen in the past, I'm concerned that they in turn are going to come down with a heavy hand and say to each of the individual municipalities, "This is the way it is going to be." That is my concern in regard to planning.

The Chair: Mr Hodgkinson—

Mr Conway: Before the witness gets away, I just wanted to be clear on something. I mean, I work at Queen's Park and live near Ottawa, but didn't I hear the witness say that there was patronage and nepotism in Mara township? Surely it cannot be.

Mr Hodgkinson: You want to come out and see, sir.

Mr Conway: I thought that was the exclusive preserve of federal and provincial jurisdictions.

The Chair: On that uplifting note, Mr Hodgkinson, thank you very much for coming before the committee.

Before adjourning our hearings this morning and just noting that at 2 o'clock we will begin again at the Best Western Highland Inn in Midland, I want to thank all of the people who presented this morning as well as what is obviously a number of people who have been here to show their interest and to listen to the discussion. On behalf of the committee, thank you all. The committee stands adjourned until 2 o'clock in Midland.

The committee recessed at 1206 in Orillia and resumed at 1401 in the Best Western Highland Inn, Midland.

The Chair: Good afternoon, ladies and gentlemen, and welcome to our hearings on Bill 51, An Act respecting the Restructuring of the County of Simcoe. This afternoon we are, of course, in Midland to hear from a variety of groups and individuals.

TOWNSHIP OF TAY HYDRO-ELECTRIC COMMISSION

The Chair: We have a very full schedule of presentations, so without further ado I'll call upon the representatives from the Township of Tay Hydro-Electric Commission. Mr Patrick Armstrong and Mr Alex Smitten, if you would be good enough to come forward, and please pour yourself a glass of water. If you'd be good enough to—is it Mr Armstrong or Mr Smitten?

Mr Patrick Armstrong: It's Mr Armstrong. Mr Smitten may be here later. He had to go to Toronto.

The Chair: Please go ahead when you're ready.

Mr Armstrong: I'd like to thank the committee for this opportunity to speak on behalf of the new hydro-electric commission for the to-be-restructured township of Tay. I would like to say that the presentation was put together rather quickly with the short time frame and say at the outset that Port McNicoll and the other municipalities had originally wished to stay as they were, and with the vote of county council, had come together when it was a fact at county to make the best of the situation. Some of the concerns that will be

addressed by myself for the hydro-electric commission will be backed up later today with the presentation being made by the newly formed municipality of the township of Tay.

I'd like to take a few minutes at this time to summarize the presentation that I've given to you.

We do not feel that Bill 51 properly and adequately addresses the reformation of hydro-electric for the newly restructured municipality of the township of Tay. Examples are costs that relate to organizing for startup, equipment, vehicle purchases and staffing that will be required.

Firstly, the costs related to the structuring of the commission are the same as those of the municipal sector, and meetings are required to discuss the needs of the new commission related to staffing services, whether contracted or performed by employees, the housing for the staff, the vehicles and the inventory. Also to be considered are furnishings, computers, fax machines, the telephone system, copiers, mailing machines etc. Presently, all these costs are shared with the municipality by two of the three commissions, being Port McNicoll and Victoria Harbour. Waubashene's commission works completely independently from the municipality.

It has been determined that the new commission will require a material handling truck to replace the smaller obsolete truck currently owned by the Port McNicoll PUC. The other commissions do not own a vehicle, as they contract out the work. Also, a smaller truck, such as a half-ton, is required as a personnel carrier. The new commission will cover much more mileage in the new municipality and it is much more economical to use smaller vehicles when possible to get from one area to the other. The estimated cost to purchase a material handler truck is \$140,000, and the half-ton, approximately \$18,000.

The commission has looked at a building to house the office staff of the new commission, and it is looking at leasing the surplus building from the municipality at an estimated annual lease of \$14,000 and part of the municipal garage to house the trucks and inventories at an annual cost of \$4,800. These costs are not inclusive of utilities, janitorial or ground maintenance. At present, Port McNicoll is sharing costs for the office with the municipality and leasing two bays from the town garage.

We have determined that the new commission will employ three full-time inside workers plus one part-time worker. We will employ three full-time outside workers and the cost of these employees will be 100% costed to the commission. The current commission operates in the following manner: Port McNicoll has two inside employees at shared cost with the municipality. They are one clerk-secretary and one clerk; two outside employees, being one linesman and one labourer.

Victoria Harbour has two inside employees, who are actually municipal employees and the municipality bills the commission for their services. They have no outside work, as all the work is contracted out. Waubashene operates with one inside worker and no outside workers and contracts the work out as well.

The new commission will require a computer system as the current system is majority-owned by the municipality. The other equipment must be fully assumed by the commission at additional cost to the commission. These include, as mentioned before, the telephone, fax, photocopier etc. We have been told by Municipal Affairs that there is no direct funding available for the hydro-electric commissions. We are told that we must apply to the municipal sector for a share of its funding. We do not feel that this is appropriate. The new municipality will be dealing with the funding issue later this afternoon. The reasoning why we don't feel it's appropriate will be brought out at that time.

It is our contention that special consideration should be given to commissions such as ours where extra costs will definitely be encountered because of the separation of the commission from the municipal sector. We are encountering additional costs preparing for the restructuring which were not budgeted for and could affect the hydro rates in the new commission.

In conclusion, we feel that special consideration must be given to the restructuring of our commission, as there are additional costs which other commissions will not be facing. Also, we may yet encounter further costs that we have not seen. When three commissions become one, there are definite differences to be dealt with that do not need to be addressed by all municipality and commissions restructuring.

We submit this to you with the hope that you will give serious consideration of our needs expressed today and bring about some changes improving Bill 51 to give assistance where it is needed in the form of special consideration to the hydro-electric commissions concerned.

The Chair: Thank you very much. We'll begin questioning with Mr Waters.

Mr Waters: I know that you've had some problems and I imagine the rest of them will be touched on later as we go through. With this, you've talked to MMA and you've talked to the county and their answer at this point in both cases is: "You'll have to deal with it in another way. You'll have to find your own way to deal with it; there's nothing set aside for this problem."

Mr Armstrong: From the county standpoint, the basic concept is that the bill is now with the province. From Municipal Affairs we've received, after direct consultation with the municipal clerk and the CAO-designate of the new municipality, letters which are attached at the back of the presentation and state that

there is no money in the restructuring funding for the hydro-electric commissions, that it is to be applied through the municipal funding. Quite frankly, working on both sides of the issue with hydro-electric and the municipality, the moneys that are required and will be addressed later, there is not sufficient funding to share it with the hydro-electric commission.

1410

Mr Waters: Then that's my understanding of your concern, is that there aren't going to be the dollars sitting on the other side of the fence that you can draw on.

Mr Armstrong: Definitely not.

Mr Waters: One of the things I'm curious about is that you seem to be the one group that is faced with this. I would have thought that it would have been not only your particular situation but that some of the other restructured areas would have had to face that. We were looking at Ramara, the new township of Ramara, which has some small communities in it, the size of which you are. Yet they didn't seem to have it, and I'm trying to grapple with why, or is it that they haven't realized it?

Mr Armstrong: Either that, or without following through with Ramara, do they in fact have a hydro-electric commission or are they serviced by Ontario Hydro in full?

Part of the newly restructured municipality of Tay will be serviced, as it presently is, by Ontario Hydro. The urban centres of Port McNicoll, Victoria Harbour and Waubesaushene have PUCs or hydro-electric commissions, and that is why—it's become a real problem with us; how it applies to the others, I really can't say at this time. I'm surprised that there aren't more presentations on behalf of hydro-electric commissions.

Mr Waters: I know in Jim's area that he has the same situation where there are a number of small towns, and I'm curious that it would only be us in Tay who are facing this. But I'm awaiting the rest of the presentation later on, so I'll hold the rest of my questions till then.

Mr Eddy: Thank you for your presentation. I think you certainly have a dilemma here with financing. I don't believe there's any provincial funding going to restructuring for municipalities, is there?

Mr Hayes: Yes—

Mr Eddy: So there is funding available. I don't know; it's not usual for a municipality to fund a hydro commission, though, is it? The power commission act governs the operation quite closely, and I don't know whether money can come from the municipality. It's uncommon if it does. You can't build up reserves in a hydro commission because of the act. You're not allowed to do that. The rate has to be approved by Ontario Hydro. It's a very closely controlled system that's very awkward.

It would look to me that the only answer is going to

be increased hydro rates. Is that what you're faced with? You're trying to not do that, I understand, but—

Mr Armstrong: We're trying not to, and as everyone is aware of, with the 0% increase proposed by Ontario Hydro through restructuring and with additional costs, it's going to be impossible to keep the rates down. But any increase would have to be approved, as you say, by Ontario Hydro and would seriously affect, I would assume, the servicing and the budgeting process.

Mr Eddy: So your request to us is to look at designating some of the funding that's going to the municipality for restructuring specifically for the hydro-electric commission restructuring.

Mr Armstrong: I guess, in short, what we're looking for is funding for the hydro-electric commission. I would like to just stipulate, though, that when I listened yesterday at Midhurst, \$2.6 million for the municipalities, I don't feel, is sufficient with the costs that we're projecting, and to expect the hydro-electric commission cost to come out of that \$2.6 million doesn't seem justified. I think when restructuring was considered, the hydro-electric commissions possibly did not have the input that they should have had to deal with funding from the province.

Mr Eddy: Thank you.

Mr Conway: Just on that, maybe just to give notice to the parliamentary assistant for a comment maybe later today or later in the week, but I look at this, and assuming you're right or nearly right, and that would be my assumption, you're talking here, in this one area, of one-time expenses in addition to what you would now normally be doing, of hundreds of thousands of dollars—my guess.

Mr Armstrong: Yes.

Mr Conway: I'm going to guess it's probably like hundreds of thousands of dollars and ongoing operational costs above and beyond what you've now got of probably, on an annual basis, hundreds of thousands of dollars annually.

Mr Armstrong: The projection in operations would indicate there will be a substantial increase. However, what we are looking at as well is that, with three municipalities coming together and the split of the area serviced by the hydro-electric commission, by the bill, as I understand it, we cannot leapfrog and jump from one place to the other to bring it in if we have to purchase from Ontario Hydro and follow in a systematic line. So for some time I would have to say that yes, the costs will be there because people will be expecting the same consideration and rates as their neighbours are getting.

Mr Conway: Now, the other assumption I would make and I would recommend for everybody to make is that there's going to be little or no money coming from

central governments that are sinking under the burden of red ink. If I were giving you advice, I'd say I wouldn't be looking for—you should be looking for it, but your chances of getting it I think are not very great. I hope I'm wrong, but I suspect I'm right. What alternatives have you got? I would hope that there's got to be a way to do this other than just cranking up a whole pile of new expenses that just nobody is going to want and few people are going to be happy about.

Mr Armstrong: I wish I had the answer. We've looked at it very carefully. The commission, combined with the three existing commissions, has taken a hard, fast look. Hopefully they are looking at coming in as economically as possible. For example, the new truck, the existing vehicle that Port McNicoll has is not suitable to service the larger area, plus it's outdated and the Municipal Electric Association, I guess it is, on safety standards may well say, "Look, next year that truck has got to be off the road."

So that cost may be there already, but as a result of the larger restructured commission, it requires a different type of truck: a material handler versus just a bucket truck. So there are additional costs as a result of restructuring that we have to deal with. Staffing is another area that we've looked at versus contracting. I would say it's an ongoing exercise to try to keep things in line and keep rates reasonable.

Mr McLean: Welcome to the committee, Pat. I thought this amalgamation was going to reduce costs. I thought that with all the Victoria Harbour and Port McNicoll offices they would be redundant and no further in use or there would be extra equipment. You're not talking about savings in your brief. You're looking realistically at what you feel is going to happen. With the computers that you're talking about and all the office equipment, if two offices close, there should be all kinds of them floating around.

Mr Armstrong: Not so. Again, the municipal presentation later will explain that area. For example, the Port McNicoll building, where the municipal office is now, will be deemed to be surplus. Therefore, the offer is made to the hydro-electric commission to either lease or purchase that building. The current Tay township office, the same as Victoria Harbour's end port, is inadequate in size to house the staff and the councils. There are other costs that have to come in from that side as well from the hydro-electric side.

Mr McLean: So they're going to build new offices for the new amalgamated municipality?

Mr Armstrong: You tell me, Al, because I think we've got some indications of costs of expanding the existing building to accommodate and it's anybody's guess where we're going on costs.

1420

Mr McLean: Nobody knows.

Mr Hayes: Thank you, Mr Armstrong, for your presentation. The bill itself says that you would continue existing services, and also if services were being supplied by Ontario Hydro that would not change either.

Actually, in Tay township—correct me if I'm wrong—the area would be smaller than the current area, so why would this add extra costs? You're talking about your sharing a computer, for example, with a municipality. Why wouldn't you continue to share that computer? Why would you have to do all these things? Would you have to do these whether restructuring was here or not? Restructuring says that you keep existing services. It doesn't tell you to go out and expand.

Mr Armstrong: As I understand, the existing services are the services supplied to the consumer. I think it's not proper to assume that you can continue on a cost-shared basis when you're satelliting, which would be the case with the scenario that you're using.

Right now you would have to know, in small municipalities, in Port McNicoll, for example, that the total office staff are shared costs, shared equipment, a shared building. Victoria Harbour duplicates as well, and the only independent operation is a one-person operation at Waubashene servicing the smaller of the three urban centres. With restructuring, it is not possible to move the people into the new municipal building and share costs, as we're looking at space deficiency for the municipal sector alone, which would require, as we see it, adjustments.

Mr Hayes: The other thing you talked about was replacing equipment, trucks for example, and I think you did indicate that eventually you'd have to purchase vehicles. I'd like you to tell the committee why you would really have to—maybe I'll put it another way: Would you have to replace trucks or get added trucks regardless of restructuring?

Mr Armstrong: Equipment wears out. Yes, it would have to be replaced. The fact of restructuring and coming into a larger service area requires a different type of vehicle. Therefore, the replacement of that vehicle is moved up and the value or the purchase price of that vehicle becomes a larger cost due to what's required in the new municipality.

Mr Hayes: I'm still trying to figure out where you get the larger service area, but I just want to read really quickly just a couple of lines in the bill, and that's the distribution of power to continue. It's section 14:

"Subject to section 15 of this act and despite section 18 of the Public Utilities Act, Ontario Hydro shall continue to distribute and supply hydroelectric power in those parts of each local municipality that Ontario Hydro served on the 31st day of December, 1993."

Mr Armstrong: Why the extra service area?

Mr Hayes: I'm just wondering why you feel that you have to spend all this extra money to continue the

service that is there.

Mr Armstrong: The current vehicle owned and operated by the Port McNicoll Public Utilities Commission operates within the boundaries of the municipality. It does not go into Tay township, it does not go into Waubaushene and it does not go into Victoria Harbour. Victoria Harbour and Waubaushene have their own commission. They do not have vehicles. They contract the work out.

It's the intention, economically, that it is better to service with our own employees and equipment rather than to continue putting out normal maintenance costing to contractors. Capital costs that are beyond the scope may very well still be out. That would have to be a budgetary decision, but the mileage they'll be covering with that vehicle to service the urban centres within the new municipality will definitely be a broader range and increase mileage for that vehicle. It will be on the highways where now it stays on town streets in the shorter run.

The Chair: Thank you very much for coming before the committee this afternoon, and I understand that there are some other points that will be made later by others that will touch on some of the points you've raised.

TOWN OF PENETANGUISHENE

The Chair: I will now call our next witnesses, from the town of Penetang, Mayor Robert Klug and Reeve Anita Dubeau. While they're coming to the table, the parliamentary assistant has several documents that he wanted to have distributed. Do you want to just mention what those are?

Mr Hayes: Yes.

The Chair: If the representatives from the town of Penetanguishene would come forward and just get yourselves—

Mr Hayes: For the committee, some of the discussions this morning and dealing with some of the boundaries, and we do have the information here dealing with Oro and Medonte and also Orillia township. We've copied this. These are the recommendations that were made by the committee and also adopted by the county council. I do have copies for all the members of the committee and maybe we can get it passed around.

Mr Conway: Depending on what's there, I would appreciate that very much; it might be useful at some point. We'll have to look at the material, and I appreciate certainly the efforts of the parliamentary assistant. Depending on what's in the material, it still might be useful to have somebody who actually is willing to take authorship of these recommendations to come and speak to them.

The Chair: Thank you. Mayor Klug?

Mr Robert Klug: Yes, Klug is my name.

The Chair: If you would be good enough to intro-

duce your colleagues and then please go ahead with your presentation.

Mr Klug: Gladly. I'd like to introduce Reeve Anita Dubeau and a member of our—actually, our economic development committee is one, but also a developer who has a major investment in the town of Penetanguishene, Mr Ray Marchand.

The Chair: Fine. Go ahead.

Mr Klug: Honourable Chair and members of the standing committee, ladies and gentlemen, I wish to thank you for this opportunity to present the comments of the town of Penetanguishene on the proposed county restructuring contained in Bill 51.

The town of Penetanguishene has been actively involved in this study process, and we have tried to make positive comments and recommendations on all aspects of restructuring, both local and county-wide. As a municipality, we have consistently had two areas of concern. First was the necessity for the county-wide strategic and official plan, and we note the county's commitment to generating these documents. Secondly, we have concerns about the alterations of our boundaries and our ability to effectively integrate and administer these new lands.

Specifically, we have concerns with our southerly boundary, which will now be with the town of Midland. The county's assertion that all municipalities must provide for buffers between themselves and their neighbours is the nub of our concern. With the proposed southerly boundary between Highway 93 and Fuller Avenue, we would have already developed land right up to the boundary line.

We would ask the consideration of a legislative amendment to move the boundary approximately 600 feet south to the Brunelle Side Road. This movement would result in the loss of approximately 200 acres from the new Midland to the new Penetanguishene. It would involve 11 owners, six of whom already receive water supply from the municipality system and two of whom, notably McLeod and Marchand—Mr Marchand to my left—account for 190 acres which are parts of parcels which extend into the town of Penetanguishene.

Although we know that roadways make poor municipal boundaries, we believe the adjustment of our boundary from the northerly limits of lot 113 to the southerly limits of lot 113 make sound planning and administrative sense and would allow Penetanguishene to integrate these areas as our buffer with the town of Penetanguishene.

An area of concern to the town which did not arise during the study process but has since been brought forward by our police service board is a potential for huge policing costs for the Oak Ridge division of the Ontario Mental Health Centre. The resources which the current policing body, the Ontario Provincial Police,

have extended in the last few years at this installation would be far beyond the ability of the town of Penetanguishene. The possibility of a major incident or crime at the installation which could involve our entire 10-member police force for a lengthy period of time is too daunting to be considered. For this reason, we must insist that the legislation transferring the Oak Ridge facility to Penetanguishene jurisdiction specifically exempt the town of Penetanguishene from providing police coverage. We believe that if police coverage by Penetanguishene is mandated we must have legislated commitments from the province to provide for cost recovery of such policing.

1430

I am enclosing for your information copies of our previous submissions to both the county of Simcoe restructuring study committee and the Honourable David Cooke, Minister of Municipal Affairs. I am also enclosing a map which shows the lands we would like to have transferred to Penetanguishene's jurisdiction.

I thank the committee for its patience and attention and hope that we may hear its reactions and recommendations to our comments prior to Bill 51 being reintroduced for final reading.

The Chair: Thank you very much. We'll begin the questioning with Mr Conway.

Mr Conway: Just one question. Thank you very much, your worship and colleagues. It seems to me that your concern about the potential for municipal policing of the Oak Ridge facility is quite a legitimate concern. Parliamentary assistant, is there any reason that you're aware of why we could not accede to that request? Is there any impediment to, for example, designating that as just a responsibility for the OPP, which still must maintain a detachment in the area of Penetanguishene? Am I correct?

Mr Hayes: Mr Conway, I think this is an issue that the ministry will have to deal with the Solicitor General on to come back with a proper answer on it and to negotiate.

Mr Klug: When we were researching policing, we realized that there was some major cost in the history of the Oak Ridge development.

Mr Hayes: This will be dealt with by the Solicitor General—the two ministries.

Mr Conway: It's a good brief, and that's the only thing. I think it is quite a legitimate point. I would certainly like to see some redress for the municipality.

The Chair: Mr Wilson and Mr McLean.

Mr Jim Wilson: I think it's a very good brief too. You raised a couple of very good points with respect to policing. My question really is to the parliamentary assistant. When Bill 177 was passed, the first restructuring of Simcoe county in 1990, it contained significant clauses with respect to policing. This bill contains no

mention of policing whatsoever. Is that because this issue has only come up recently? One would have assumed that, where municipal police forces are asked to expand, discussions would have already taken place with the Solicitor General's office.

Mr Hayes: If I may, I'd refer that to Mr Griggs, please. He's been following through with it.

Mr Griggs: Bill 177, as you know, created three town municipalities in the southern portion of the county. Under the Police Services Act at that time, if you were considered a town or if you named yourself as a town, you were required to provide policing. In that case you had fairly large areas of townships that were currently being policed by the OPP that had to provide local police forces or expand fairly small urban forces, local forces.

With the Simcoe county study, the new municipalities that are being created from amalgamations of whole municipalities have chosen to be referred to as townships and as such won't be required to provide policing. The only cases where there will be an expansion of local police forces is regarding the towns, specifically, Penetanguishene, Midland and Collingwood. I guess the feeling was that the town forces could adequately police those areas in that they were fairly small. If the annexations were proceeding under the Municipal Boundary Negotiations Act, there would be no provision for the continuation of OPP policing in those areas. However, this is a new concern that's been raised and we'll certainly look into it.

Mr Jim Wilson: I'll take that as a commitment from the government to do that. With respect to the issue of the boundary moving to the southerly boundary of lot 113, I guess it is—

The Chair: Excuse me. I just want to be clear with our witnesses. Mr Marchand, you have, and we also have, a copy of a letter from you.

Interjection: Mr Marchand has a submission he would like to make at this time.

The Chair: Did you want to read that into the record? I mean, it is part of our record now. But before we go on with that specific issue, I just wanted to be clear.

Mr Ray Marchand: I'd like to read it and then answer any questions if there are any.

The Chair: Perhaps then, Mr Wilson, could I ask Mr Marchand just to read his—it's a brief letter but it relates to the same issue? That way we've got everything on the table.

Mr Marchand: "Honourable Chair and members of the standing committee:

"Ladies and Gentlemen,

"Our company is a real estate development company that is in the process of developing a 51-acre parcel of

land that has 16 acres in Penetanguishene and 35 acres in Tay township. The map is enclosed. The draft plan approval on the 16 acres is imminent.

"We were extremely happy when restructuring was proposed that was granting the land north of the Brunelle Side Road to Penetanguishene. Only weeks before restructuring was finalized, the land was granted to Midland. It would be quite impossible for this land to be serviced by Midland. It is substantially more logical for the land to be serviced by Penetanguishene.

"It is our opinion that the Brunelle Side Road boundary would benefit not only our company, but all other landholders north of the Brunelle Side Road. It would also be a benefit to the town of Penetanguishene and not be any loss to Midland."

Thank you for hearing our submission.

The Chair: Thanks very much. Now we have that jointly on the record and we'll go back to Mr Wilson.

Mr Jim Wilson: Thank you, Mr Marchand. Just reading the background material, this was referred to the county. What was the response from the county?

Ms Anita Dubeau: Right from the beginning it was suggested that two municipalities had to agree to make any changes. We did have discussion with the town of Midland, but their argument was that there was a watershed there and we recognized that. The flow of the land perhaps is not readily—the south part of Brunelle Side Road is in question and certainly should be left undeveloped for some time. But we couldn't get anywhere.

Mr Jim Wilson: Mr Marchand, does this effectively split your property now; you'll have to deal with two jurisdictions?

Mr Marchand: Yes, we would. My intention when I originally purchased the land was to ask for voluntary annexation. At the time before restructuring began, I spoke to the current mayor and asked him if we could do this and he said yes, we could ask for annexation. Then shortly thereafter, restructuring began and the mayor said, "Why don't we just wait and see what happens."

So we were extremely happy when the boundary was previously set at the Brunelle Side Road. Shortly before it was pretty well finalized, we were told it was going to move back to the old Tay boundary. So this became a real problem to us.

Mr Owens: Why was it being changed?

Mr Marchand: I have no idea.

Mr Jim Wilson: This reminds me of south Simcoe. When it was amalgamated, the ministry was rather adamant that you not use Highway 27 south of Cookstown as a boundary line. Therefore, I have cases where the house is in one jurisdiction and the barn is another jurisdiction. We're going to take an attempt on Thurs-

day to try and correct that once again, but haven't had much luck to date.

I agree, and I think Mr McLean agrees, that from what you presented to us, all of your parcel should be in Penetanguishene by the looks of it.

Mr Marchand: It would be a tremendous benefit to us because we have no other alternative but to ask for a voluntary annexation and we are in the process of developing the first 16 acres. I called again today to see if we had draft plan approval because the Ministry of Municipal Affairs said that all was in place and we should be in a position to have draft plan approval now. We'd like to proceed and begin developing the other 35 acres.

Mr Jim Wilson: I guess we want to hear what the town of Midland has to say about this when they do their presentation.

Mr McLean: Anita, were you on county council when the restructuring lines were being drawn or was that before your time?

Ms Dubeau: Restructuring had been discussed. I've been sitting in the county this last term, two years, so it was in process.

Mr McLean: But was this line changed while you were at the county?

Ms Dubeau: I believe so.

Mr McLean: Were you informed of any proposal—

Ms Dubeau: No, we were not. It just kind of happened.

Mr McLean: I think we've got to find out who's changed minds in this restructuring process. We went through this this morning in Orillia with the lines that were changed. Nobody seems to know who's doing it. Is there a ghost in the crowd who's doing this?

This line that was changed, who changed it? Somebody will say, "Well, it was the boundary committee." Somebody is doing it and we've got to find out who it is. Somebody is answerable for this.

1440

Mr Klug: Our original meeting with Midland proposed that the boundary line for Penetang southern boundary be south of the Brunelle Side Road for the same reasons that Midland has proposed that north of the Brunelle Side Road as a buffer. They identify that southern region as the watershed for Midland. It's a very wet area and you see no development in that area.

Mr McLean: But that's not answering the question.

Mr Klug: It did change somewhere at the county and we can't figure it out. We wanted to get back with Midland to discuss it, but the criteria said that where two municipalities couldn't agree, the boundary would stay at the line that was finally set and how it was set.

Mr McLean: But you didn't agree to change it from the first line.

Mr Klug: No.

Mr McLean: How can it be changed when you didn't agree to it? They say it can't be changed back when they won't agree to it. How they could they change it from you when you wouldn't agree to it?

Mr Klug: It's a very good question to ask and I certainly would like to know where it comes from.

Mr Conway: You're both agreed that one buffer is enough?

Mr Klug: One buffer, and we assured both the town of Midland and the county that we would use it strictly as a buffer and certainly not consider development on it of any major impact.

Mr Waters: I'm in agreement with my compadres across the way. This is getting confusing because it seems every time we go into another area there are some boundary changes that we don't seem to know—nobody knows why, how.

Maybe what I would propose is that we ask you, Mr Chair, or the parliamentary assistant—whoever is the appropriate person on this—to get the Simcoe county restructuring committee back, either tomorrow night when we've looked at all of this or first thing Thursday morning for half an hour or an hour or something, to go over some of this so we can have some understanding as to who changed them and why, because I find it very frustrating.

The Chair: You've made that suggestion. Perhaps we'd just let members think about that and at the end of the day, before we break, we could come back to that point. I just don't want to take—

Mr Klug: We would like to be a party to that information.

Mr Waters: We'll be certain to pass it on.

The Chair: Mr Waters, sorry, can we proceed then? The parliamentary assistant.

Mr Hayes: I've tried to answer this question and maybe I haven't been clear enough. I think it's very simple and I think everybody knows and the members who sit on the county council—you had the county restructuring study committee that gave the report and recommendations to county council, and they voted on all those. We have the final draft, the one that went to county council. Those are the people who have made the changes or made the boundaries. It's the study committee that made the presentation.

Mr Conway: You make a good point. I guess the difficulty we're having is—

Mr Hayes: What you're suggesting is I have someone, a person or persons, come before the committee to explain, to let you know who did it. Is that what you want?

The Chair: Mr Conway, and Mr Wilson, just on this point—

Mr Conway: Just very briefly—and I appreciate, Pat, what you said. It really concerns me when I hear people like this group saying—this is their boundary line and they've advanced an argument and there certainly seems to be some unanswered questions to them. When Ms Keefe was here early this morning, I thought she was quite good, but when she was—I think I asked her the question around the Orillia township thing quite specifically and she didn't claim very much ownership of that decision.

So I guess I'm with Dan and others, before we get to the end of the day or before we get to the end of the process—because I suspect there are going to be some amendments. I suspect also there are going to be some people who are going to be annoyed that the committee is thinking about amending the sacred lines of this peace treaty. But I'll tell you, there's got to be some better information before this committee, I think, is satisfied that the decisions that were made were well and properly made on the basis of all reasonable evidence tendered.

Mr Hayes: My understanding of this is that those boundaries, recommendations, were made two years ago. This is the information I have been given on some of those boundaries. If I can ask one very quick question because another understanding after Penetanguishene, in their presentation to the committee, talk about—and I thought that from my understanding, from what you were saying, that you wanted, that Penetanguishene wanted this particular area as a buffer, and if you wanted it as a buffer, I'm sitting here saying, well, why are we talking now about developing it? I'm asking the mayor.

Mr Klug: We think it's good planning to have a development, not just come to an abrupt buffer but that it slip back into a rural use, and we would take every assurance that the development that he would have would be on full urban services and that closer towards Brunelle Side Road there would be little to no development. We think we can safeguard that far better than the town of Midland.

The Chair: Reeve Dubeau, did you wish to—

Ms Dubeau: Yes, I just would like to comment to the parliamentary assistant re the decision process at the county level: That is correct, those issues were discussed, but they were not unanimous in the decision. We opposed those very issues at that time, but the majority rules.

The Chair: Thank you very much for coming before the committee and making your presentation.

Mr Klug: Thank you very much for your time.

MIDLAND POLICE SERVICES BOARD

The Chair: I'd now like to call Mr Larry Hembruff, the chief of police representing the Midland police board and service, and Mr J. Douglas Reed, who is the

chairman of the police services board. The Chair will have to admit a conflict of interest, given that the chair of the police services board and I went to school together. However, apart from that, he's a fine fellow. Welcome, gentlemen, to the committee. Doug, it's good to see you. Please go ahead with your presentation.

Mr J. Douglas Reed: I believe I drew the short straw. One of us wasn't on three weeks' holidays, the other was involved in the wedding of his son, and you'll have to guess which one that was.

We're here to endorse Bill 51. I am the chairman of the Midland Police Services Board and I have been since the board's inception some 20 months ago. We're here to support Bill 51.

I guess if I only had "a" regret about the bill, it would be the business of policing. I don't believe the bill addresses that subject at all. However, Bill 107, the police act, certainly takes care of that, and I'm very confident that our board can deliver the necessary services pursuant to the Police Services Act with regard to the newly restructured areas.

As a matter of fact, as the chairman, I can assure you that this morning, board members met at the local high school for a meeting, and at the end of that meeting we passed a resolution indicating that the board would make the necessary plans to assume the policing of the restructured areas of both Tiny and Tay townships, and if the need arises to expand our current police force so as to provide acceptable levels of service, given these times of restraint.

As you know, the need to spend tax dollars wisely is always at the forefront of all of our agendas and we could use a little shot in the arm from Queen's Park to help us over the transition period. However, I remain confident that we will meet our continued policing needs, that we will be able to serve residents and visitors alike when it comes to the business of public safety.

I'm sure you would be pleased to know that the Midland police services and the board were the first municipal forces in the province of Ontario to sign the social contract, of the 116 forces that were involved.

As a matter of fact, this particular police force takes a great deal of pride in the number of firsts that it is involved with. We are involved in race relations and employment equity. We have an excellent Neighbourhood Watch program. We have fully contained platoons. Our people prior to Christmas took the pepper mace training, including the chairman of the board, much to the chagrin of his wife. A paddy wagon was purchased late last year by the Civitan club. We have a canine unit that now is almost operational. Next week, both dog and handler go off to training college for some 14 weeks.

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I watched the provincial Legislature when there was

a member of Parliament who called attention to the fact that there was a canine unit down around the St Catharines area that was funded by a service club. Well, we must be the second one, then, in the province of Ontario because the Lions Club bought our mobile unit, an animal breeder provided us with the German shepherd and so the story goes. Almost every week you'll see some kind of fund-raising taking place in the town of Midland with regard to the canine unit.

I can assure you that our police force is not a slouch in any state of mind. We have been involved with community-based policing for the last year or so. We were one of two police services in the province of Ontario to focus in on being a model police force. Recently, we just completed a survey in the community and the chief now has set up a chief's advisory committee that will go through the survey and will spot some of the gaps, and already we know where some of the gaps are and those gaps have already been filled.

Our annual budget is in excess of \$1.5 million, of which almost 90% goes to wages and benefits, and still I can assure you there are police people from across the province of Ontario who would give their eyeteeth to join the Midland Police Service. I think they would want to come to Midland, not only because we're located at the gateway to the 30,000 Islands but because we have extremely high morale within the department and we have an excellent rapport within the community.

Inasmuch as demands for service drive up the costs, and inasmuch as we have operated on a bare-bones budget and a shoestring budget for the last couple of years and inasmuch as the social contract has taken its toll here in Huronia as well as everywhere else throughout the province of Ontario, there will be some growing pains when we start to deliver service come the first of the new year. I would sense that this would occur, but I'm very confident that the police chief and his police service will be up to the task. As the chairman of the police services board, I look forward to the challenge.

Our motto here in Midland is "Community First," and I'm confident that we will be community first in Midland and also in the larger environs that we will be assuming come January 1.

I'd also like to acknowledge the hard work and the difficult work that has been involved in putting this act together. It has not been easy by any stretch of the imagination and we look forward to its royal assent. We look forward, as we said today, to endorsing the document. I can assure you that we are prepared in the weeks and months to come to pull all the material together so that come January 1, we'll be providing the best police service that we can in the restructured areas of Tiny and Tay that we'll be assuming. We're here to (a) endorse the bill and (b) welcome you to the heart of Huronia.

The Chair: Thank you very much for your presenta-

tion. We'll begin the questioning with Mr McLean.

Mr McLean: Welcome to the committee. Good to see you again, Doug.

Mr Reed: Thank you.

Mr McLean: Chief, I've never had the pleasure to meet you. I don't need to have that pleasure either, in appropriate circumstances.

Mr Larry Hembruff: We can arrange it.

Mr McLean: What's going to be your increased population of the area that you cover? The area's not increasing that much, but it's the population mainly.

Mr Reed: While Larry's looking for those figures, of course, there are the malls that will keep our people busy. That's for sure.

Mr McLean: Yes, the malls.

Mr Hembruff: It will be 224 persons in Tiny township, 1,968 persons in Tay township.

Mr McLean: How many in Tay again?

Mr Hembruff: There will be 1,968.

Mr McLean: So that'll be mainly Sunnyside and out in that area?

Mr Hembruff: Correct; Portage Park.

Mr McLean: How many staff do you have now?

Mr Hembruff: Thirty-one with civilian staff.

Mr McLean: Including your civilian staff?

Mr Hembruff: Thirty-one.

Mr McLean: You plan on increasing that by—what is your recommendation?

Mr Reed: Last fall when we did our initial impact survey, and when we talked to other forces that had been through the same exercise and as we travelled throughout the areas that we would have to cover, it appeared that we would require as many as five, plus an additional vehicle, plus at least three micro towers, because we found that there were gaps out around Tay Point where the communication was dead, and out behind the drive-in theatre it was dead out there.

Since then, as late as or as early as this morning, we've decided that since the area is being reduced a bit, we'll give it another drive through and we will meet with members of our police association, our senior officers and so on and fine-tune it.

I would think that probably still we'd need several, two to three at least. Again, it's the mall areas where shoplifting and accidents on the mall property and so on are really time-consuming. It could be, too, that we may have to contemplate setting up an extended service office so that we can have a presence there (a) for a presence, and (b) to have our people readily available instead of having them come in to investigate a shoplifting.

Mr Jim Wilson: Thank you, Mr Reed and Chief Hembruff, for your presentation. I can well imagine that

your police force is not a slouch. I had the good graces to have Chief Hembruff in Alliston for a number of years and he's certainly a community-minded person. Good to see you again, Larry.

Mr Hembruff: Thank you.

Mr Jim Wilson: You mentioned that you may need to expand the force a bit to service the new areas, particularly the malls, that you'll be acquiring. Currently, are those areas of Tay and Tiny that you'll be taking over serviced by the OPP?

Mr Reed: Yes, that's right.

Mr Jim Wilson: That's substantially paid for by the province of Ontario?

Mr Reed: Right.

Mr Jim Wilson: I guess it's a concern, as Larry will know when south Simcoe was amalgamated, policing costs is one of the concerns that ratepayers raise, because I think a number of people see it as another form of downloading from the province. For example, in the areas you take over, Midland taxpayers will have to pick-up the cost, given that as far as I know, this hasn't been addressed in this legislation so there's no special deal as in the south Simcoe study. There was a phase-in for policing and the costs were phased in over five years, or phase-out, I guess, of provincial funding for policing.

In this case in this particular bill, there is no section at all dealing with policing. Do you know what the estimated cost might be to the ratepayers of Midland, hence the savings to the province of Ontario?

Mr Reed: I think if we were to have to buy the service from the OPP or if the OPP continued to provide the service, the town of Midland would still have to meet it in either scenario.

Again, we were talking initially in terms of five people, a vehicle and a steno, and we're looking at a little over \$100,000—correction, \$275,000. That's five staff and a steno, plus the micro towers.

This is a tough one, but we think that if we were to buy the service, we would be getting a duplicate service, that our training would be duplicated. We feel comfortable that we can do it. It's going to take a lot of elbow grease, but we've got an excellent rapport within the association. We're not going to ask them to do 72 hours a week, but I think if we can work together in harmony with them, we can work through this thing.

I would think that during the transition period we may be able to get away with a couple of people and use one of our Criminal Investigation Bureau cars to do that kind of work out in the community. So instead of hitting everybody over the head with one big sledgehammer, we may have to work into it slowly and we may start with two and use one of our current vehicles.

Mr Jim Wilson: I appreciate your honest responses. I just note to committee members that when the county is moving ahead with restructuring, some of these issues aren't, in my opinion, discussed as forthrightly with the public—it's been my contention, as committee members will know, that this is another example of a form of downloading. I think the question of whether communities should be paying for policing or not, whether it be in areas that are currently serviced by the OPP, is a separate question that should be dealt with by the Legislature. In part, I see these restructurings as a way of the province offloading some of that responsibility and cost on to local ratepayers, and I think that's what's going to happen, although in a small way, in the Midland area. I just want committee members to take note of this as an example of some of the costs we talk about when you're restructuring.

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Mr Larry O'Connor (Durham-York): I appreciate you coming before us today, because it again brings a little different light to the committee members as we sit through this process and hear about how the restructuring is going to affect different portions.

Coming from the area that I represent, which is the other side of Lake Simcoe—it's a largely rural part but a part of Durham region, a little part of York region—the police services, when you mention community policing, are quite involved with that. In fact I know the OPP officers, the association out of Beaverton, are planning to do a bit of a fund-raising car rally for the women's shelter. There is quite a bit of community policing that goes on in Pefferlaw. The York Regional Police went into the Lions hall and set up kind of an outpost for a period of time, and they've been involved in setting up community policing down in Stouffville. So there's a lot of cooperation. Over in Sunderland, the Durham Regional Police were right on the main street talking to some of the local people. It's changing quite a bit. It's evolving. So I'm glad to see that you're involved in that.

The question that I've got—and this is new to us, some of this—is, does Penetanguishene have a police service or do they purchase that from the OPP?

Mr Reed: They have a municipal police service and we do the dispatching out of our radio room. As a matter of fact, we dispatch for almost a couple of dozen different organizations: the area fire departments, the bylaw enforcement, public works, Penetanguishene police. We have what I think is, again—it's an old Pickering college cliché—just a terrific rapport with the Penetanguishene police and with the OPP and with all the forces. When the need arises we're there to back them up and they're there to back our people up. Often we cotrain.

It was interesting earlier this year that the police associations in both municipalities talked about the

possibility of amalgamating police forces into sort of a mini regional police service. That's pretty exciting, because usually politically it comes this way down and here the front liners, these guys and girls who have been out on the road who know what's happening, are saying, "You know, if we got together, we could probably save some money and we could probably enhance our morale and so on." Our boards tackled it, the councils have tackled it, and it may not be on quite the front burner now as it was in the spring, but we're talking. These are the kinds of things that occur when your communities and police forces are so close together.

Mr O'Connor: I know even, for example, the community—

The Chair: I'm sorry, we have one more questioner. I'm going to have to move on.

Mr Eddy: Thank you for your presentation. It's most interesting in some of the other things that you're doing. I wondered if either the police services board or indeed the municipal council, the treasurer, had looked at the cost of policing with the idea that the area that's proposed to come in to the town of Midland, if you tax that at the same rate for police services that you do the present town, would that pay for the additional services required by an expanded force? Are you clear on what I'm saying?

Mr Hembruff: Yes.

Mr Eddy: I wondered if that would take care of it at the same rate.

Mr Hembruff: I don't know the answer to that, but our mayor is sitting back here and I'm sure he's up next and that would be a good question.

Mr Eddy: I just wondered if it will result in an increase in the police tax rate in the present town. I know it will in the area coming in, of course, because it will be providing police services there.

Mr Hembruff: I don't believe it will, but I'm sure he can answer that for you.

Mr Eddy: Thank you.

Mr Reed: By the same token, if there's a name or two that you could let us know as somebody we could touch up for a little bit of money down at Queen's Park, we'd be only too happy to hear.

Mr Eddy: We'll certainly put your request in.

The Chair: So noted. Gentlemen, thank you both very much for coming before the committee and talking to us about the police services here in Midland.

TOWN OF MIDLAND

The Chair: If I might then call upon the mayor of the town of Midland, Mr Edward Symons.

Mr Edward Symons: Good afternoon, sir.

The Chair: Welcome to the committee. If you'd be good enough to introduce your colleague.

Mr Symons: I'm Ted Symons, mayor of the town of

Midland, and my colleague is Fred Flood. Fred is our chief administrative officer.

I had come today sort of prepared to make a few general comments concerning the process and where we in Midland, at least, feel that we fit into that. If there are any questions that may come up during it, I would invite certainly those, or I guess following the conclusions.

Initially, we in Midland see this process, the County of Simcoe Act, 1993, as the end of a process that has lasted for several years. It is going to require change, and change in local thinking, in local municipalities, and that obviously doesn't come easily. On the other hand, the development of our country is young and if we can't learn from our mistakes as well as our successes in the past, then I think at least in learning from those we should be prepared to implement change where change is thought to be beneficial in the long run.

I think most of the controversy with respect to Bill 51 is centred around the boundaries and the boundary changes that it would implement, and many of my comments are directed in that end.

But to just look at the growth of urban municipalities generally for a moment, Midland's current circumstances are typical of many small municipalities throughout the province. Growth is inevitable, and as the local economy grows, it fuels residential growth. I think we generally feel that kind of growth is healthy and essentially it's our economic way of life. The benefit of the growth is not limited to the local urban municipality in which it's generated. The benefits are felt by the surrounding rural municipalities, and I think in general terms our local economies are interdependent.

When the geographic townships of Ontario were laid out, of course, Midland didn't exist. It was settled through natural forces around about 1871. It was incorporated a few years thereafter as a village and then as a town. But it had to be carved out of the geographic townships as they were initially laid out and its boundaries have been adjusted several times. I think in all reality it's likely to grow even further in the normal course of things and its boundaries should not be etched in stone or thought about that way.

On the other hand, there are balancing interests. Recent years have produced a common phenomenon in development patterns where urban municipalities have pushed their own boundaries and rural municipalities that have become just as sophisticated in recent years have tended to foster development on the fringes of the urban municipalities, partly to take advantage of the economic opportunity for assessment and partly just to satisfy demand and the natural market forces that all municipalities have to deal with.

Typically, on the urban side of the line the development has been serviced and on the rural side of the line

it has not been serviced. The long-term needs for servicing, particularly as our environmental consciousness grows, becomes easily predictable. The rural municipalities generally have not had the will or the facilities to provide for services and it ultimately falls to the responsibility of the neighbouring urban municipalities to provide those services.

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Quite apart from this study that we're looking at today, there are two significant engines for change and development of urban municipalities at work today. One is the growth and settlement policies that are presently being applied by the Ministry of Municipal Affairs with respect to official plans, primarily but certainly with respect to urban growth, and the other is the Sewell commission, which has now delivered its report on new planning in Ontario.

Both recognize that this old, relatively uncontrolled pattern of development has to change. They also recognize that urban municipalities should not be permitted to sprawl for the sake of sprawling or grow for the sake of growth, that services are too expensive to maintain, and to have better utilization of land within urban municipalities before further encroachment on a neighbouring rural municipality certainly is part of that direction.

Development which reasonably requires servicing today is going to occur on services. It isn't going to occur initially on unserviced land.

It's also recognized, I think, or coming to be recognized, that if there's going to be any kind of fairness between the urban and rural boundaries, there needs to be a buffer zone between the urban development and the rural development so that we don't tend to pile up on one another the way we have in the past. I think that's been characteristic of past growth and perhaps inevitable, given the lack of controls that might have existed.

If we're going to institute a better approach, then obviously we have to set the stage. Where fringe development has occurred that is unserviced fringe development on the edge of urban municipalities, then I suggest that it makes sense that the boundaries of the urban municipalities are going to have to move out to take in that development plus a fringe area or buffer zone beyond that to avoid a similar recurrence.

I think planning on a county basis is very important to the whole process if the interests of the competing municipalities or the urban and rural municipalities, primarily, are going to be balanced off and, again, if these kinds of things are to be avoided in the future.

I think Midland generally supports the need for change in the planning attitudes and a strong approach to sustainable development in the preservation of our natural environment, and in our view this whole process lends itself to those ends.

Now, in Midland's circumstances in particular, it certainly fits the pattern that I've described. We've got unserviced development primarily on our westerly boundary. It sits atop the water aquifer on which the town of Midland and we think probably the town of Penetanguishene rely for their water supply. There are demands for services now to better utilize that particular area, and the assumption of the responsibility for servicing the new area is a burden which will consume, obviously, the revenues that will come out of the new area. But it's a condition that needs to be met and no doubt has been the reason for many boundary applications for change that have occurred in the past.

We're cognizant to the extent that I suppose we can be in looking at it primarily from our own interest of the financial impact on the rural municipalities. For many years these areas have been a source of revenue without a corresponding burden, and obviously the reaction against change is inevitable. However, if we're ever to see the ills of the past overcome, I think the change has to come.

In particular we've talked to our neighbours, the township of Tiny, and we've done our own calculations with respect to the impact on the township of Tiny. Our financial calculations indicate that with the commercial assessment absent, it would impact the average tax bill in Tiny to the extent of \$24 per year. The impact is not nearly so great as is feared, in our view.

None the less, compensation for the loss of the assessment, particularly over the short run, has been recognized. We do have an agreement with the township of Tiny now with respect to compensation. That agreement was conditioned upon support from the province to make the compensation package work, primarily because from our point of view, all of the revenue out of the area virtually, initially at least, will be consumed in providing services, particularly as we look down the road to the hard services that are necessary. So obviously we can't do both, but we have met with provincial negotiators and we have agreed upon a support package that makes the whole thing work from our point of view.

For the township of Tay, we have been listening to them and it seems obvious that they're going to, again, lose revenue or revenue source for which there was not a corresponding burden. But at the same time, we've talked to the provincial consultants with respect to a sharing of the excess revenue out of that area with the township of Tay in the short run.

Midland's capacity to deal with the additional servicing responsibilities, whether they be hard or soft services, is being addressed as the long-term plans for the municipality are being developed. So in our view the scheme is becoming workable for Midland. Our concerns have been largely addressed.

In summary, I'd just like to say to you that the

change in our attitude towards urban development or community development within our province is essential. The protection of the natural environment is something that we're learning more and more about as time goes. If the engines for change to address those concerns are to have a fair start, then obviously, they have to be kick-started, and I think this process will do that.

The impact of change, particularly in the short run, should be recognized through appropriate transition and compensation, and I believe that's been addressed. In our case, our concerns from within have also been discussed for some time now and we look forward to assuming our new role.

Again, I guess I would say that change is bound to produce a reaction, but this is change that is needed on any kind of objective plane, and the opportunity for change, certainly, that the provincial government now holds in its hands ought not to be missed.

The Chair: Thank you very much, Mayor Symons. We have a number of questioners and we'll begin with Mr Waters.

Mr Waters: I have a couple of questions. I guess my leadoff question, your worship, is that we have heard from different people who would have us believe that everyone in the county voted against this; nobody wants restructuring. We heard it this morning; we heard it yesterday. I must say that Reeve Keefe said, no, that is not the case. I would like your opinion as to whether or not that is the case.

Mr Symons: I'd suggest the county record certainly shows that the county study was supported by the majority of the municipalities within the county. Most of the reaction against the recommendations I think has come from the rural municipalities. Certainly from our view, Midland has been criticized throughout the whole thing as a municipality that's just looking to take in a tax grab and that sort of thing. That could be the farthest from our minds. We look upon the change as one which is going to create a responsibility for the town and one that we're trying to balance so that it doesn't become a burden to the existing taxpayer and also doesn't result in tax shocks for the new areas.

I would suggest, in a short answer to your question, that the restructuring proposal is generally supported within the county, but all too often it's the silent majority that's never heard. It's only those who launch a particularly vocal attack on a change like this who get most of the ink.

Mr Waters: I have one concern because, as Mr Flood and I both know, we've had one disappointment with MOE in the last while, being a certain cleanup. I am concerned, as we go ahead with this, about the discussions or whatever with MOE regarding the new service area, that being the 93. Are we talking to them

in a proactive way at the same time as we're going through this process?

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Mr Symons: I'm not sure I fully understand the question.

Mr Waters: In other words, the servicing of the 93 area, of the mall strip and the area up in there: Is it looking optimistic, shall we say, from the town's point of view from its discussions at MOE for getting that servicing in as soon after restructuring takes place as possible?

Mr Symons: As far as I know, that's certainly the case. We've invited representatives of MOE to sit in on our servicing plans for the town generally and for sewage treatment expansion and that kind of thing, and the relationship we've experienced over the last two or three years has been very productive.

Mr Waters: And last—it's more of a statement than anything else—I'd like to congratulate you and the people from the town, from your council, who have worked so hard, and your staff, at resolving the number of issues with Tiny and with Tay. You've been working proactively at trying to get these issues resolved and indeed personalizing this restructuring to the needs of north Simcoe. I congratulate you on that.

Mr Symons: Thank you very much.

Mr McLean: Welcome to the committee, Mayor. The support package that you have negotiated with the ministry, did it change when you changed the boundaries in Tiny township?

Mr Symons: No, it didn't change significantly. It didn't change at all, I suppose, because the arrangement with Tiny for the interim change on the boundary occurred prior to settling the support package. It's only recently that we've been able to speak to the province about that. I guess we didn't think of that boundary transition as being significant because the assessment within that area isn't particularly significant.

Mr McLean: Who's paying Tiny for its loss of assessment?

Mr Symons: The package is split between the town of Midland and the province.

Mr McLean: You're getting money from the province and then you're paying Tiny? Or is the province paying both you and Tiny? How does that package work?

Mr Symons: The mechanics of the payments haven't been discussed, I suppose, but I presume that where Tiny is to be entitled to a lump sum payment up front for the first three years and then thereafter will be making payments that will be spread over a period of about nine years, total, the initial upfront payment, as we understand it, would be paid by the province and then the subsequent paydown will be paid by the town. The split is about 57% Midland and 43% province.

Mr McLean: The boundary line next to Penetanguishene—that was Brunelle Side Road—are you aware of any negotiations that took place with regard to that? At first, initially, it was in the town of Penetanguishene and then it was switched back over to Midland.

Mr Symons: I'm aware of a meeting which occurred between the two towns at Midland, yes.

Mr McLean: You're aware of the meeting that took place between the two towns.

Mr Symons: I was there.

Mr McLean: And did Penetang agree to change that boundary line?

Mr Symons: No, I don't think there was any agreement as such; that is, the premise we were working on at the time was that the boundary had been struck and that there wouldn't be any change from that boundary unless the two municipalities were able to agree on the change, and the two municipalities were not able to agree.

Mr McLean: But that was after it was changed from being in Penetanguishene. The line was changed back to take it out of the Penetanguishene jurisdiction and put it into Midland.

Mr Symons: I'm not aware of those circumstances. I don't think so. When the boundaries with respect to that side of the town were struck, they were, to my recollection, as they currently are now. There was some discussion about changing the boundary to move it farther south. Those discussions occurred a couple of times and we never did come to a different agreement, or any agreement at all, that is, to change the boundary from where it is now.

Mr McLean: Not from where it is now, but I'm talking about from where it was when it was changed to where it is now.

Mr Symons: I'm telling you that I don't know that it ever was any different than it is now. I think if you're under that impression, that's certainly not mine and I don't think it ever has been.

Mr McLean: The mayor of Penetanguishene, before you, said that it was in Penetanguishene and then it was changed and they don't know why it was changed, and we can't find anybody who does.

Mr Symons: If that occurred, then it must have occurred in the county committee structure, perhaps prior to the release of the reports that became public. I don't know. But I can tell you certainly Midland's position on that particular issue. It is essentially that we feel the land between where the boundary is now slated to go and where Penetanguishene would like it should not be developed; it should remain as a buffer between the two municipalities.

The only real question—I'm told that there has been a presentation earlier today in which perhaps a person

involved in developing has made a statement, and perhaps they don't necessarily subscribe to that view now. But assuming between the two municipalities the common ground that we appeared to have when we met—that is, that land should not be developed—it's just simply a question then of which municipality should have the ultimate control. We felt that because it is a watershed area and it's land which is sloping off towards the south, down into a well collection area which is depended upon as part of Midland's water supply, the watershed should remain in the town of Midland.

We felt that is a principle, an attitude, I would say, towards municipal boundaries now that we felt was the overriding factor. We did agree at the time, or our discussions at least went to the notion, that we were quite prepared to talk about joint planning, no changes without the consent of Penetanguishene and that sort of thing. But because we felt that it had an impact on our water supply, and certainly any future development of that area would, we felt it was important that Midland have the last card to play.

Mr McLean: Just a final question. Are you going to have to expand your fire department? The police are going to be \$275,000, a cost which the province is picking up now and which the town of Midland is going to have to pick up. Are you looking at expansion of your fire department in order to cover the extra areas?

Mr Symons: We do have to make some minor adjustment in the fire department to cover the areas. It's not terribly significant, because we've been in the habit of supporting those areas in any event.

The Chair: The parliamentary assistant just wanted to make a comment on the boundary change, and I know Mr Conway had a question on that. We'll go first to the parliamentary assistant.

Mr Hayes: There are accusations or people assuming that someone just stepped in after the report was all done and passed and started arbitrarily making boundary changes. What has actually happened is that the committee went to county council with the report, with recommendations on their boundaries, and they voted on all these. The county council—and I think the public should be aware of this, and all the members on this committee—indicated to the ministry and duly voted that they weren't prepared, and they are not, to make changes to the final draft unless the municipalities that are affected came to an agreement. I don't know how much clearer I can make that.

1530

Mr Conway: I apologize—I was out for part of the Midland presentation—but I listened carefully to this last exchange around the boundary issue that Mr McLean has raised. Now, we're got the mayor of Midland, who seems to be a very reasonable fellow. We just had the mayor of Penetanguishene, who seemed

also to be a reasonable fellow. The mayor of Penetanguishene said—and I think it's in here as well—that the boundary was x and then it was x minus a couple of hundred yards or whatever. But it was his impression that it had been moved. We now have heard your view. Then we had Mr Marchand, interestingly, from Penetanguishene enter a submission.

I think I now know what's going on here. I think the town of Penetanguishene seems to be somewhat more inclined to contemplate a certain measure of modest development within this disputed zone, if I can call it that. I get the feeling from the mayor of Midland that it is the view of the town of Midland that this is the buffer zone and that there will be no development, right?

Mr Symons: With the qualification that as time goes on and with the two towns consulting one another, if it were appropriate for development and both sides agreed to it, then I'm not suggesting that the ban on development would be etched in stone. In fact, it could never be, in any event.

Mr Conway: Mr Wilson made a good point about some of the problems in south Simcoe around these boundaries, and you've got cases where you've got the house in one township and the barn in another. The people from Penetang who were just here—at least, the impression they left with me was that their submission speaks to that. I'll just take a moment, reading from the bottom of page 1 of the town of Penetanguishene's submission:

"We would ask the consideration of legislative amendment to move that boundary approximately 600 feet south to the Brunelle Side Road. This movement would result in the transfer of approximately 200 acres from the new Midland to the new Penetanguishene. It would involve 11 owners, six of whom already receive water supply from the municipal system, and two of whom, notably McLeod and Marchand, account for 190 acres which are parcels which extend into the town of Penetanguishene."

It seems to me, as I understand this situation, and I might be completely misunderstanding it, that if we accept your position and the boundary as it's now proposed, we're going to end up with some people in a split situation, aren't we?

Mr Symons: That may be true, Mr Conway, but, on the other hand, isn't that always the case? There are always going to be situations. I don't think that it's inordinate here.

But I would like to say, as Mr Hayes has indicated, that there has been no flip-flop with respect to that boundary. With all credit to the mayor of Penetanguishene—his recollection may be different—I think if the record is checked, it will clearly show that the boundary as adopted by the county study and by the

county council has not been changed back and forth from that point. There may have been discussion prior. I was not party to the county discussions, of course, but from the time it became public and from the time the boundary was established there has never been any change of that boundary back except, as Mr Hayes indicates, on agreement between the two municipalities affected, and there just hasn't been any agreement.

Mr Conway: I have a final point, then, just on the Marchand submission, which you may not have seen. I'd be happy to make a copy available, but you probably have an idea of what he's proposing, at least on the basis of what he told us. What would you then have to say to a person like Mr Marchand about his prospects for development, as he's indicated he would like to proceed, if he should, as may be the case, fall within the jurisdiction of the expanded town of Midland?

Mr Symons: In the absence of some more particular knowledge about that—I've not seen his proposal until today. I'm not sure how long ago it is we met with the town of Penetanguishene on this particular issue. It has not been an issue since then and has been raised strictly in the context of these hearings. But I would say that if Mr Marchand or the town of Penetanguishene is now proposing that this area be developed or contain development, that is totally contrary to the kinds of discussions we had between the two municipalities.

The notion of a buffer, the notion that particularly Penetanguishene at the time did not want to see Midland growing up right on its boundary or, I suppose, we to the other side, was discussed at some length. We were of one mind about that at the time. But I would not like to leave the question, though, without emphasizing again the question of the watershed. In our minds, that was the controlling factor. Those considerations still exist today.

The Chair: Mr Wilson has a question on this issue, and because it is one that has come up and I think is important in that context, we want to go through with that. Then the parliamentary assistant would like to make some clarifications on it as well. I realize we're getting a little long on time.

Mr Jim Wilson: Actually, I had my hand up before this issue got into depth. I have a quick question about the compensation.

The Chair: Could we finish with this and have the parliamentary assistant, just while our minds are around this issue on the boundary?

Mr Hayes: For further clarification, I'm going to refer it to Mr Griggs again, who has worked with this thing right from the beginning. I think the committee should know this.

Mr Griggs: On this whole question about this strange phantom line that keeps on moving, the fact of the matter is that the county study committee looked at

restructuring. They looked at a number of options for boundary lines across the county. The final recommendation is the line that was endorsed by county council and is expressed in the bill and is the one that's being discussed here. Of course, the committee is going to look at different options when it's considering restructuring. Their final recommendations went to county council and were endorsed.

Mr Conway: I guess the only point I'd make there, though—and I appreciate that—is that it reminds me of electoral redistributions. There are a variety of lines that are proposed and in the end a final decision is made, but if you've ever been involved in one of those happy little experiences, you know that, like a good game of water polo, there's sometimes activity below the water lines not ordinarily seen by the human eye that explains, in part, how it is some of the final lines come to be drawn.

I guess the only other thing I'd like to say is on this question of servicing, which we didn't get to. I don't live around here. This is not going to be any skin off my nose. It might be some money out of my pocket as a provincial taxpayer at some point. What about the potential servicing of some of these areas? Is it the case that some of this might be more easily served by the town of Penetanguishene as opposed to the town of Midland? I don't know the answer to that, but I might like to know at some point.

Mr Symons: Assuming the wastes which the servicing is meant to address run downhill, then it would be more easily serviced on the Midland side.

Mr Jim Wilson: With respect to the boundaries, I just want to reiterate how important it is to get them right. With respect to the staff from the Ministry of Municipal Affairs, I just want to say that my experience with south Simcoe is that if you've got a boundary in the wrong place, which New Tecumseth contends—and we'll deal with that on Thursday in the form of an amendment—it is almost impossible to get it changed. In spite of three years of meeting with various ministers now, we can't get it changed.

Secondly, it's all fine and dandy for the government to continue to lean on the county and say: "It was your study; you endorsed it. We wash our hands of it. We're simply here to rubber-stamp it." That's not why I was elected to the Ontario Legislature. This is a provincial bill. People will pick it up in later years and they will know that Mr Wilson, Mr McLean, Mr Hayes and Mr Beer, provincial politicians, had to approve this legislation. I think we were elected to make some decisions with respect to this.

I do want to ask you about the compensation package, your efforts to compensate Tiny. I don't say it in a facetious way, I say in a very serious way: The money you're expecting from the province, how much would that be? What is the total amount of money involved?

Do you have that in writing from the province? Because I can again tell you, with the south Simcoe experience, that some of the oral promises are not followed through on.

Mr Symons: The compensation package is designed to compensate for the loss of commercial investment. It provides payment to Tiny for 100% of that assessment over a five-year period, then reducing 20% a year over the next four years to zero. It's a nine-year package. The total is around \$1.8 million over that nine-year period. The province is to pay, according to our recent discussions, 43% and Midland 57%. No, we do not have it in writing.

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Mr Jim Wilson: You may want to consider getting it in writing before Thursday or certainly before we pass this bill, if we do, at third reading.

Mr Symons: I'll certainly take that under advisement.

Mr Jim Wilson: You'll sleep better.

Mr Symons: It's only been in the last few days that the bargain has been struck, so there really hasn't been a chance.

Mr Jim Wilson: We will try to help you out through the committee process in that endeavour.

The Chair: Gentlemen, thank you very much. We got into a couple of things in some detail, but I think that was necessary, given some of the testimony we've had. We appreciate your answers.

TOWNSHIP OF TAY NEW TOWNSHIP OF TAY

The Chair: Just for members of the committee, the township of Tay and the new township of Tay are going to present together so that we can ask our questions dealing with both presentations. It was felt that would be a more efficient use of time. I then ask the representatives of the township of Tay and the new township of Tay to come forward. I'm not sure whom I should finger as the leader between the new and the old, but perhaps one of you would—

Mr Jack Hunter: We'll clarify that.

The Chair: Okay. We met Mr Armstrong earlier, but if you would introduce yourselves, then we'll proceed.

Interjection.

The Chair: I may show a little leeway at the 30, but it won't need an hour.

Mr Hunter: Mr Chairman, we may need an hour.

The Chair: Well, go ahead. We have quite a full schedule, so I just thought that with the presentations being made together, that may just assist in working through some of the issues.

Mr Hunter: I'd like, first of all, to introduce those at the table. On my immediate left, your right, is the

reeve of Port McNicoll, Pat Armstrong, and next to Pat is our chief administrative officer, who is also the administrator-designate for the new municipality, Mr Ted Walker. On my right, and your left, is councillor David Walker, who is chairman of finance in the current municipality of Tay and a member of the general government and finance committee in the newly restructured municipality as we work towards restructuring.

The Chair: And you are?

Mr Hunter: Jack Hunter, reeve of Tay township.

We appreciate the opportunity to appear before the committee to present this submission respecting Bill 51, An Act respecting the Restructuring of the County of Simcoe.

Bill 51, if given royal assent, will result in a new municipality being formed which will consist primarily of portions of the existing township of Tay and the existing villages of Victoria Harbour and Port McNicoll. Representatives of the township of Tay will join representatives from the two villages to make a joint submission to the committee on behalf of the new municipality later this afternoon.

This submission will address concerns that the township of Tay has had since the proposed restructuring of Simcoe county was first introduced. It applies in particular to subsection 2(7) of Bill 51. This concern relates specifically to the proposed eastern boundary for the new municipality of the township of Tay.

Since this boundary was first proposed, the township of Tay has opposed it and supported our position with sound and logical reasons meeting all the criteria for establishing boundaries. For this you could refer to pages 14 to 20 of the attached submission, appendix A, which was made to the county of Simcoe study committee on restructuring in June of 1991.

Much of the information I'm going to cover as we go through the rest of this, so if you would like to leave that for now, but we would like you to consider having a look through that in your deliberations, certainly before you make decisions as a committee.

The township of Tay continued to relay these concerns in subsequent submissions to the county of Simcoe and to representatives from the Ministry of Municipal Affairs.

In March 1992 we met with the elected officials of the proposed township of Severn in an attempt to have them consider the best interests of this community and address the impacts of the proposed boundary. Their sole response at that meeting was, "We would agree to the boundary remaining as is only if the area at the south end of Orillia township did not go to Oro." A letter from the proposed township of Severn attached as appendix B details their response with respect to the same.

Our frustrations with the restructuring process and,

more particularly, the lack of response to our concerns regarding this issue were increased further when, on attempting to introduce a motion concerning this boundary at county council, we were advised that the executive committee had decided that all appeals for change to the study would be dealt with by the Minister of Municipal Affairs, who was now in possession of the document.

We provided all the information to Mary Newman in the boundary administration department of the ministry and requested a ministry representative to sit down with the two municipalities and look at the area. Frankly, we were ignored. We tried arranging a meeting with the then Minister of Municipal Affairs, Mr Cooke. This resulted in further frustration and inaction as on three separate occasions, meetings with the Minister of Municipal Affairs or his deputy and his successor were cancelled by the ministry.

To date, we have not been extended the courtesy of a meeting with the minister. To use the Honourable Dave Cooke's terminology when remarking recently on the health card fraud in reference to previous governments' attitudes, "Frankly, they didn't give a damn," in this case about the people of this area or their elected government. Is this your perception of cooperation? The county said, "Deal with the minister." The minister was saying, "It's a county decision." The people closest to and with the best knowledge of the situation were simply ignored. Surely this cannot be allowed to happen in this day and age.

Accordingly, you, the committee, represent what may well be our last opportunity to have someone listen to our concerns. We respectfully request your consideration of the following:

It is the position of the township of Tay that the eastern boundary for the new municipality of Tay township should be the present eastern boundary of the existing township of Tay for the following environmental, social/community of interest and economic/planning reasons.

Dealing first of all with the environmental, in order to better recognize the evolving principles of watershed planning and the need for the remediation of the quality of Severn Sound—and I'm sure you're all aware of the remedial action plan studies that have gone on within the Severn Sound area and through 16 other areas, I guess, on the Great Lakes systems—the area east of Highway 400/69 that drains to and forms part of Severn Sound should be part of the municipal jurisdiction that contains the shoreline of the sound. You may be interested, gentlemen, that we are the first municipality we know of that has introduced an amendment to its official plan which will go to the last public meeting at the end of September which deals with the waterfront issues and support of the RAP findings in the report.

The ongoing development of the expanded Matche-

dash Bay wildlife area will have a significant impact on the quality of the waters entering Severn Sound. The remediation of Severn Sound will require that the main sources of nutrients to the sound be within the jurisdiction of the municipalities abutting the sound.

As the two largest sources of water to Severn Sound, both the Severn River outlet at Port Severn and Matchedash Bay should remain within the jurisdiction of the new municipality of Tay township. This municipality must have the jurisdiction to be directly involved in protecting the quality of Severn Sound and the people affected by that water quality.

In the social/community of interest area, the use of Highways 400 and 69 as the new eastern boundaries of the new municipality of Tay township will result in the irreparable splitting of a vibrant community of interest centred in the hamlet of Waubashene, which extends south to Fesserton, north to Port Severn and east of Matchedash Bay.

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The hamlet of Port Severn is a community whose life and economy is intrinsically associated with Georgian Bay. As a Georgian Bay-oriented community, Port Severn has its closest links and associates with other Georgian Bay communities and does not have a Simcoe/Ontario orientation. The children attend school in Fesserton, Waubashene and Midland, depending on the grades that they're in. The population is served by churches in Port Severn and Waubashene. Veterans belong to the legion in Waubashene. Shopping is done mainly in Waubashene and Midland and they are served in the health service area by physicians associated with the Huronia District Hospital and by the hospital itself in Midland. The Simcoe county health unit in Midland also serves these residents. Their recreational activities are mainly focused in the Georgian Bay community. Library service is provided in a newly located and expanded community library in Waubashene. Currently a local post office serves the hamlet of Port Severn.

The hamlet of Fesserton and the people who live in it are closely tied with the community of interest centred in Waubashene. Their children, too, attend school in Fesserton, Waubashene and Midland. They receive their mail service at the Waubashene post office and most of their other needs are met by the services outlined previously for the hamlet of Port Severn.

The original site selection and design/build decisions regarding Tay's new Waubashene fire hall built in 1991 were made to provide excellent fire protection and emergency response services to Highway 400/69, Port Severn through Fesserton and the areas east of the highway. To ensure that the new Waubashene fire hall continues to service the area as it was designed to, the existing eastern boundary of Tay should remain as the

boundary for the new municipality of Tay township. And I could indicate to you here that we've been approached with regard to a fire servicing agreement for that area by one of the municipalities involved in the new Severn township.

Economic and planning: The reconstruction of Highway 400/69 will result in Waubesaushene becoming the centre of a major system of interlinking service roads and interchanges. As the first east-west, north-south intersection of the Trans-Canada Highway, the Highway 12/400 intersection and corridor will experience common long-term development pressures which will raise common planning issues.

Only by having both sides of this corridor and all of the transportation intersection in one municipal jurisdiction can any consistent long-term planning approach be developed. With four major interchanges in this six and a half-kilometre stretch and with the interlinking system of service roads, Highway 400/69 does not represent a physical barrier but rather an excellent connecting link and is therefore not suitable for use as a boundary.

The Highway 12/400 intersection is one of the best locations in all of north Simcoe to accommodate new commercial and industrial growth in the long term. The only realistic way to capitalize on these long-term growth opportunities is to have the Highway 400/69 corridor and the Highway 12/400 intersection within one municipal jurisdiction.

The loss of this area represents a 12.08% loss of our residential levy and 33.65% of our commercial and business levy. For more detail regarding the financial impact, you could refer here to appendices C and D attached. However, we would invite you to perhaps look at those particular appendices as they are also attached to the new municipality's presentation along with two other financial impact appendices which would be helpful to you people.

In closing this particular presentation, we thank the committee for the opportunity to present this submission and we respectfully request your consideration of the same in your deliberation concerning Bill 51. Our representatives here today would be pleased to answer any questions you may have with regard to those items presented.

The Chair: Now, did you wish then to make the second presentation so we ask questions on all of it together?

Mr Hunter: We're prepared to do that. If there were some questions from the committee that they felt they may miss because we go on with the presentation, then—

The Chair: I'm in the committee's hands, but the original suggestion was that you might wish to—

Mr McLean: If we only have a half an hour to deal with it, perhaps we should start asking questions now.

The Chair: Well, no. It's just a question of whether they want to make the two presentations. The same four people you see before you are doing the second one. So I simply ask the committee what it would prefer to do.

Mr Conway: This is a very good presentation, and my inclination is to go into the next one, but—

Mr Hunter: That's fine with us because—

The Chair: Okay. Is that agreeable to everyone? Yes.

Mr Hunter: They do tie together and to some extent there are some overlapping factors in them. We want you to know that.

The Chair: Fine. We'll then move to your other hat.

Mr Hunter: Okay. In moving to the other hat, I'm going to ask Councillor Walker to make that presentation, and when we come back to the questioning, he'll deal with the financial questions and I'll deal with the non-financial ones.

The Chair: Fine. Please go ahead, Mr Walker.

Mr David Walker: Thank you, Mr Chairman. There was a reference made in an earlier presentation with respect to the hydro-electric commission that tied into this submission, and I think that it was important that you had the previous two presentations to help you understand fully what we put before you now.

We, representatives of the proposed new municipality of Tay township, appreciate the opportunity to appear before the committee to present this submission with respect to Bill 51, An Act respecting the Restructuring of the County of Simcoe.

Each of the municipalities, Tay township and the villages of Port McNicoll and Victoria Harbour, which form the new municipality of Tay township originally opposed restructuring in favour of the status quo. It is apparent, however, that restructuring will occur, and the councils and staff of the three municipalities are determined to make the amalgamation as successful as we possibly can to provide our citizens with an efficient, effective municipality which can provide the required services at a reasonable cost. We are, however, faced with a major obstacle in attempting to achieve this goal, that obstacle being the obvious serious financial implications facing the new municipality.

In January 1989, the report of the consultation committee to the Minister of Municipal Affairs entitled County Government in Ontario recognized "the need for an adequate tax base" for local municipalities. While the new municipality of Tay township may in 10 to 15 years, if substantial development occurs, achieve an adequate tax base, we are faced in the intervening period with a tax base that has been seriously eroded by restructuring. When combined with other factors, which will be addressed later in this submission, it places the new municipality in a very precarious financial position, to the detriment of the citizens it will serve.

The financial liabilities were recognized early in the process, and our concerns with respect to the same were included in our submission to the county of Simcoe consultation committee hearings. Refer to pages 7 to 11 of appendix A attached.

In addition to the above, we have relayed these concerns to representatives of Municipal Affairs and have had several meetings to detail and clarify our position. Much to our disappointment and frustration, however, attempts to have a meeting with the Minister of Municipal Affairs have proved unsuccessful. On three separate occasions meetings with the minister were arranged, only to have them later cancelled by the ministry.

We would like to take this opportunity to detail our related concerns to the committee and respectfully request your careful consideration of each and the cumulative effect they have on the new municipality.

Erosion of tax base: Loss of the Tay Point area to the towns of Midland and Penetanguishene and the area east of Highway 69 to the proposed township of Severn will result in a dramatic erosion of our tax base. In addition to the loss of 1,192 households, we will lose \$111,374,747 of assessment and, accordingly, \$519,899 of levy for municipal purposes.

Loss of other revenue: We will experience loss of other revenue in the amount of \$336,254 per year. This figure has been calculated assuming there is no change in the amount of unconditional grants as a result of restructuring, as we have been told by Ministry of Municipal Affairs staff. We have asked to have this fact confirmed to us in writing. To date this confirmation has not been received and we respectfully request the committee to confirm the same.

If in fact our unconditional grants are reduced after restructuring in relation to the areas lost, then our calculations are understated and the revenue loss is significantly greater than the amount we are reporting in this submission. For detail respecting the financial analysis, refer to appendices B and C, which depict the loss of Tay Point east of Highway 69, and accompanying appendices D and E, depicting the loss of Tay Point only, that is if the area east of 69 were left with the new municipality.

1600

Municipal office expansion: In the opening remarks made yesterday, I think there was a reference to a Taj Mahal that we have in Simcoe county. Let me assure you that the joint council and committee working on this particular municipal office expansion have gone to the other extreme.

Neither of the three amalgamating municipalities has a municipal office large enough to house the staff of the new municipality. We're therefore faced with an immediate need to expand the larger of the three

facilities, that being the Tay township administration centre. This project will cost approximately \$400,000 plus interest charges relating to financing.

This scenario is perhaps unique of municipalities amalgamating in Simcoe county and represents a huge expenditure which should be the responsibility of the ratepayers. In addition to the municipal office, it is also necessary, for related reasons, to expand the Tay township garage. This project will cost approximately \$350,000 exclusive of financing charges.

Computer system: Related to the foregoing, the Tay township computer system will require an upgrade due to the increase in users. This project is expected to cost in the neighbourhood of \$70,000 and again is directly related to amalgamation.

I might note for the committee's information that according to the formula put forward by the Ministry of Municipal Affairs, it is estimated that the transition funding available to the new township of Tay is in the area of \$342,000.

Staffing costs: We have completed our staffing requirements for the new municipality. There will be three fewer employees in the new municipality than presently exist in the individual corporations. However, due to assessment erosion and related factors, the payroll of the new municipality expressed as a percentage of municipal levy will increase to 68.26% from the 57.24% which presently exists in the three individual municipalities.

We expect amalgamation will affect all new municipalities throughout the county to some extent and acknowledge that in most circumstances, the transitional funding provided by the province offsets the same to a large extent. We submit, however, considering our unique circumstances as detailed earlier, that the transition funding represents only a minor contribution to the expenses we will incur.

If no further assistance is provided to the new municipality of the township of Tay, this burden will fall on the shoulders of its ratepayers. We'll already be suffering due to the erosion of the tax base as a result of restructuring.

Accordingly, we request consideration pursuant to section 28 of Bill 51, which represented the only method of avoiding extreme financial hardship for the new municipality. As mentioned earlier in this submission, we have been unsuccessful in getting a meeting with the minister and therefore appeal directly to the committee for consideration and/or guidance.

With respect to the social contract legislation recently passed by the government, the Social Contract Act, 1993, Bill 48, and the county of Simcoe Act, 1993, Bill 51, should be reviewed in concert to ensure there are no contradictions between the two pieces of legislation.

Related to the foregoing, clarification is required with

respect to the following. Our new municipality will have three fewer employees than do the three municipalities presently. Will this and other savings be recognized by the province and therefore be permitted to form part of the plan the new municipality will submit pursuant to the Social Contract Act? What will be the date by which the new municipalities in Simcoe county must submit their plan or agreement in 1994? We respectfully submit this date should be no sooner than August 1 to allow the new municipalities sufficient time to complete the budget process and incorporate the new pay equity plan.

Notwithstanding the above, we submit that where two or more entire municipalities are amalgamating, provisions of the Social Contract Act, 1993, should not apply. This of course is due to the fact that the amalgamation exercise itself addresses the very nature of the Social Contract Act.

With reference to sections 45 and 52 of the bill, and these speaks to the bylaws, we are unable to understand the purpose of the abovenoted sections of Bill 51 with respect to "the 31st day of December, 1996," and are concerned it may cause significant problems. For example, our interpretation of the intent is such that it will be necessary to re-pass road-name-change bylaws etc, resulting in an administrative nightmare. We submit that the intent of this section of the bill can be met simply by the existing subsection, (a) in both cases, "The date it is amended or repealed."

In closing, we thank the committee for the opportunity to present this submission and we respectfully request your careful consideration of same in your deliberations concerning Bill 51. Our representatives here today would be pleased to answer any questions you may have.

The Chair: Thank you very much, we have both those presentations now on the table and we'll begin the questioning with Mr Waters.

Mr Waters: One comment, just as we get into this: I found it interesting, this morning when we talked to Orillia township about wanting to take that southerly part back, that it didn't mention that there was something going on on the west side of their area, the east side of yours. I find that quite interesting.

But I would ask, have you had any discussions with Matchedash as to whether they would mutually agree to being part of the new Tay township versus going in with Severn?

Mr Hunter: Yes. We have indeed at one point sat down with representatives from both Coldwater and Matchedash on that very matter and discussed with them the sense that it would make for those areas, over to and including the road that goes up to Severn Falls and the Big Chute, to be in the Georgian Bay-oriented community rather than the Orillia-oriented community.

There were concerns that this would be splitting this big township of Matchedash in two, with one part of it going to Orillia and one part of it going the other way. Really, the access routes are one on either side, and it sort of made sense to us and it would have looked after some of the situations within the watershed and the planning and so on, but they did not see that would be a beneficial situation for them, and at that time they were already talking with Orillia and so they wanted to continue to do that and showed a preference towards going to Orillia. That may be because, once again, once you reach Coldwater, for instance the high school students there go to Orillia. Associations are more from that area towards the city of Orillia area in terms of servicing and shopping and hospital etc.

So you've got some already natural dividing lines there, and what this whole change seems to be doing is to disrupt it all for no good reason. You could take the reasons and the meeting of the criteria that are shown in the study for putting that area in Matchedash, Coldwater, Orillia, Severn township and most of them don't make any sense. They don't bear any substance compared to what we tried to get the committees to understand at the county and tried to work towards getting a hearing with the minister for it. This just made a lot more sense.

I won't make further comment. There were some comments after the whole issue was over which lead one to believe that it should never have happened this way.

Mr Waters: Okay, when Mayor Symons alluded to their willingness today to talk with—or there's a deal with you or the new Tay, the difference between the expenditures and the revenues for the Tay Point area on a declining basis for five years, if Midland and Penetang pay such a compensation, will this satisfy your concerns with the loss of Midland Point?

Mr Walker: The suggestion has been made and we've begun a process of discussions with the town of Midland and the town of Penetanguishene with regard to that Tay Point area. Should compensation be agreed upon, I see that as softening the blow to the ratepayers for a period of time. In the submission I related to you the percentage that salaries and wages represent of our total municipal levy and we need to have something left to buy pencils and paper and tires for the trucks. That particular compensation issue I see as cushioning the effect on the ratepayers for the five years. It's going to have to be borne eventually.

1610

Mr Waters: You're now getting into my concern. In a couple of the things I've seen, and we've talked before about—my concern has been not just the startup costs of a new township, but in our discussions, none of us have come up with a way of funding this township in the long term. Eventually, you're leading to doom

unless some miraculous thing drops out of the sky, I believe. Have there been any discussions—

Mr Walker: I'm sure you've heard a lot of negative comments about restructuring. Restructuring makes some sense. It has been recognized by the members of the joint council that will look after this new municipality next year that in the long term, we do foresee benefits coming along. We see the cooperation of the two urban areas within this new municipality on hard services, enabling us to respond to the concerns expressed in the Sewell commission and so on with regard to development. This, of course, speaks of residential development. We would like to think that there's a potential for some commercial and industrial development as well.

Mr Waters: Pat's grinning over here.

Mr Walker: Yes. We can see some efficiencies produced. Some of the statements made in your fact-finder's report yesterday will be borne out, that we will introduce some efficiencies, so there is a belief, a hope I guess would be a better way of saying it, that these efficiencies will come along in time to help cushion the effect on our ratepayers.

Mr Waters: I know Jack's biting at the bit here to make a comment, so I'll let him and then I'll finish.

Mr Hunter: Just to answer that for you, I've done a little work on this. Taking Jeremy Griggs's numbers presented on behalf of the province and the growth projections of 1.44% for Simcoe county and the conclusion that much of that growth would be in the commuter shed, which is 60 to 100 kilometres north of Toronto, and that sort of ends before you get to Horseshoe Valley Road, none of north Simcoe is really impacted by that growth figure.

But if I take the 1.44% growth figure and apply it to our new municipality—we estimate using 2.8 persons per household—a growth in the households of some 428 over a 10-year period, and at the current levy average, that would produce an increase of \$98,440 in actual levy. That leaves us, at that point, with \$116,000 short, revenue to expense, provided the expenses don't increase. If we take a relative 2%-per-year increase over the 10 years, we're going to be at 45% that we have to gain between now and 10 years from now to offset this. That's all we have to pick up from the taxpayers; it's 45% over that 10 years that's got to be there.

Otherwise, we drop services and we're unable to service. It's really simple, and those aren't stacked figures; those are figures that are minimal. If you want to check with ministry representatives whom we've been dealing with, we've come forward with totally honest and supportable figures in any of the figures we've been dealing with them on. There's no point in doing otherwise.

Mr Waters: That's my concern. With the smaller

tax base, yes, if everything works out exactly as predicted you will, in the long term, come out ahead, but how long a term is that? What happens if your grader blows up this winter and you have to plow the roads, or next winter or something like that? I'm concerned about the tax base on which this township has to operate for the next number of years.

Mr Walker: That's exactly what we're saying.

Mr Waters: And you're having a problem. You're saying that all of the grants—I believe in one of your submissions you had been told verbally that everything would carry on as it has in the past and the transfer payments would be—

Mr Hunter: We've been told that unconditional grants to the new municipality will represent what is now being provided to the three current municipalities. That's what is said. There will be no reduction.

Mr Waters: You would like it in writing, though.

Mr Hunter: We're looking for it in writing. We're still waiting. We've known this. It was presented to us the first time three months ago. Then two months ago, we're still waiting for it in writing. But as a member of the House has said, get it in writing.

Mr Waters: Okay, I'll pass.

Mr Eddy: I want to thank the presenters for a very interesting presentation, and noting the problems they've presented, this is an amazing situation. I'm trying to think of another restructuring where a municipality has been reduced in size and in tax base.

A main principle of restructuring, as has been stated, is to enhance the fiscal capacity of a local municipality, and this has not happened. It's the reverse. I know it's a difficult task to change the map and to restructure local municipalities to bring about maybe what you intend, but this breaks that most important rule of enhancing the fiscal responsibility of a local municipality so that it can meet the needs of the citizenry and the future needs, and it's awfully important. So I note that, and I'm really amazed that it's happened or being proposed.

I wanted to ask the question about compensation. Midland has negotiated a compensation package with Tay and we've been given some particulars about that. Has Severn negotiated a compensation package with Tay township for the area that it's getting? Are you satisfied with your compensation package and how does that work? Could we have some details?

Mr Walker: No compensation has been arrived at. The discussions have just begun. We have thoroughly researched the information, and if I refer you to appendix C of the new Tay township presentation, these numbers have been very carefully researched and prepared by our staff. They have been submitted to the Ministry of Municipal Affairs officials for their review.

They suggested that it be done on an actual cost,

rather than budget, which was done in the first place because the financial information returns by then were completed, again reviewed by MMA staff. It's only been about two weeks since Midland and Penetang and the township of Severn have actually had these figures before them, so it's really just begun the process. We have no idea where it's going as yet.

But if you take a look at that appendix C, I would direct your attention—a brief explanation of it. In this amalgamation we have taken the view that the impact of the village of Port McNicoll and the village of Victoria Harbour on this amalgamation is neutral in that they are coming in their entirety, with their entire tax base and their entire costs. So the figures you have before you relate to the township of Tay before restructuring and after restructuring. To put it very simply and in a short time, the actual revenues remaining are at 65% of the former township of Tay and the actual costs remaining are at 83%.

Mr Conway: Just on that, would the ministry accept this data?

Mr Eddy: This must be used for funding.

Mr Conway: It's very interesting data and I appreciate it.

The Chair: We'll come back to it. Again, that's the appendix C data, which you have.

Mr Walker: Yes.

Mr Eddy: I just had one further point I'd like to add. Would you prefer that the negotiation be completed before the bill is passed, or does that matter?

Mr Walker: In the presentation I made reference to section 28 of the bill, and section 28 of the bill is more important to us than the compensation is.

If we are to realize something out of the restructuring, we have to get over the short-term pain. That's what section 28 is going to have to address. That's what the provincial government is going to have to address for this municipality.

When you have a bag of marbles representing the assessment of the county and you set out with the goal to create 60 municipalities that are better, guess what? One of them's going to lose out, and you now have them before you. You can't strengthen all municipalities without weakening one.

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Mr Eddy: I have to respond just for a second. I don't know that that has happened before. I can't think of a case, and I'll research it, where that has happened to a municipality, that it has been weakened on restructuring. I think it's a first, but we'll check it.

The Chair: I just note: Mr McLean, Mr Wilson and the parliamentary assistant.

Mr McLean: I want to talk about the boundary change. The easterly boundary of the township of Tay

presently now is at 400/69 Highway. That's what the proposal is.

Mr Hunter: Yes, that's what the proposal is. The study has placed it at 400/69, centre of the road.

Mr McLean: What population are you losing in that area, just roughly?

Mr Walker: We have it in households as opposed to population.

Mr McLean: Anyhow, I wanted to make a clarification because Dan had mentioned with regard to Orillia township being here this morning. It wasn't Orillia township; it was Gary Thiess speaking on behalf of the people of the ward that he represented. So that's why he didn't mention the northern part of the westerly boundary, I would think, because it will be mentioned when they make that presentation by the township. I wanted to make sure that Gary wasn't getting blamed for not saying anything. Yes, have you got the answer?

Mr Walker: These appendices break it down. We've stated it in terms of households. There are 347 households east of the Highway 69/400 corridor.

Mr McLean: So why was it put in with Severn township? Why was it taken out of Tay? Who drew the line?

Mr Walker: The county committee, and we've been trying to find out. We made this proposal several times and have not received the response or rationale.

Mr McLean: But you didn't agree to it. They said you can't change boundaries unless the municipalities agree to it.

Mr Walker: It was suggested that we talk with the new township of Severn, but when they've been given all these households and all this assessment, particularly the commercial and business assessment, I don't think they're going to agree to give it back. So there's nothing there to cause them to sit down at the table.

Mr McLean: What was the basis, the reasoning? Was there any reasoning why they put that into Severn? Go ahead.

Mr Hunter: If you check the study, the study says that. It was to put Matchedash Bay all in one municipality. It already is; it's already in Tay.

Mr McLean: That's right.

Mr Hunter: It said that Highway 400 formed a natural barrier. Do you know that there's one road that leaves Coldwater and goes to Port Severn? Do you know that there is a double-lane of highway and two service roads that go from Waubauskene to Port Severn? Do you know that it's only 6.2 kilometres from Waubauskene to Port Severn, and 6.2 kilometres from Coldwater doesn't get you near Port Severn?

If you'll turn to your maps that I've provided, there are three circles on one of those maps, and the radius of those circles is 6.2 kilometres. There are four inter-

changes across Highway 69, which is now being twinned, between Waubashene and the top end of Port Severn, which is six and half kilometres or under. That's one of the best-served areas in terms of crossing the highway that there is on all of Highway 69/400.

Mr McLean: Who from the ministry was dealing with boundary negotiations?

Mr Hunter: I can tell you that Coldwater said about Medonte that where there were two interchanges across the highway within five kilometres it didn't make a good boundary. In the other area, because they wanted it, it made a good boundary.

Mr Jim Wilson: I'm a little confused here too, because I think in the presentation it has been made clear that one of the principles behind restructuring that Mr Eddy mentioned was economic viability. I think that has been violated in the case of Tay. But secondly, and please excuse me, Tay, but it really ticks me off that now the government is allowing a major corridor like 400/69 to be used as a boundary when Municipal Affairs for the past five years has consistently said you can't use roads as boundaries.

That's why, if you look from Cookstown south to Highway 9 with the south Simcoe restructuring in the large brief we have from New Tecumseth, which we'll deal with tomorrow, Municipal Affairs was insistent that 27 couldn't be split, could not be the boundary for the new municipality of New Tecumseth, and that is why the boundary now runs between barns and houses, two lots in west of 27. It's a very strange line there. I have been told by two ministers in this government that the previous government wouldn't change its mind because Municipal Affairs bureaucrats said you cannot use highways, where at all possible, as boundaries.

Now I want to know from Municipal Affairs, bureaucrat or otherwise, why 400/69 is suddenly a good idea, when Highway 27 had to be incorporated in one municipality. It couldn't be split so it went to Bradford-West Gwillimbury. Yet these people are saying they've lost a large part of their assessment because the line now goes down the middle of Highway 400/69. I'd say another principle of restructuring has been blown out of the water with the Tay example.

I want that cleared up, because, I'll tell you, I've sat in minister's boardrooms on three occasions now with the town of New Tecumseth, before and after its restructuring, and very clearly been told that you're not allowed to use highways as borderlines, because they don't want lines running down the middle of highways. So I don't know.

Mr McLean: Why is this one?

Mr Jim Wilson: Why is the exception here then?

Mr Hunter: We brought that exact matter to the committee, by the way.

Mr Jim Wilson: Thank you.

Mr Hunter: They said it had been established that highways should not be used as boundaries.

Mr Jim Wilson: Not only established; it's in effect, absolutely.

Mr Hunter: We said it had been established—

Mr Jim Wilson: They're on my side.

Mr Hunter: —and still they use the highway. By the way, we provide emergency service out of their Waubashene fire hall for accidents along that highway. When you divide it up, we want to know if they're going to do it on the other side of the highway. We know they can't.

Mr Jim Wilson: It's a good point.

The Chair: The parliamentary assistant has some responses to a number of questions.

Mr McLean: We want some answers from them. Let's get some answers.

Mr Hayes: You'll have lots of time to play politics, Al. It's okay. It's part of the game, eh?

Mr Jim Wilson: We're not playing politics. I take exception to that. We're asking you very straight questions, because your principles seem to be all over the bloody board.

Mr Hayes: If you will stop, we will attempt to get you the clarification, Mr Wilson.

The Chair: Please go ahead.

Mr Hayes: What I will do is refer to Mr Griggs on the boundaries of 400 and 69, that issue, and also the other issue raised with appendix C. Then I have a couple of questions after that.

Mr Griggs: Regarding the use of the highway as a boundary, here's a perfect example of the fact that this study was a local study and the lack of ministry control in the recommendations. Secondly, to compare the 400 highway to the 27 highway I think is a little misleading. Everybody knows that the 400-series highways are major highways—

Mr Jim Wilson: So is 27.

Mr Griggs: —and could represent a significant boundary between two areas. So, as I said, it's a local study. The study committee made the recommendations, county council endorsed them.

The Chair: And appendix C?

Mr Griggs: Regarding appendix C, with regard to the information on revenue and expenditures, while we can't agree with the totals, we have no idea in terms of the splits between the specific areas that are being shifted to different municipalities. That's for the municipalities to work out. So, for example, in terms of your total fire budget, we have no idea as to what portion of that fire budget relates to a specific area being transferred to another municipality.

Mr Walker: With respect, Mr Chairman, ministry

people have been supplied with the allocation methods used for the different items in the budget. There were some six or seven different methods of allocating portions of the budget and the ministry has that information.

Mr Hayes: Thank you for your presentation. It was very thorough. The one issue, I guess, when you talk about losing the \$519,899 in taxes from losing part of the Tay Point area, just what services did Tay provide to the people in the Tay Point area for that amount of revenue?

Mr Walker: Tay township has provided administration services, a full planning department, full fire services, full road services, maintenance of loose-top and hard-top roads, summer and winter control, street lighting, library. We have a full planning department to support the residents.

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Mr Hayes: Of course you spell out here the amount of dollars it will cost you to, say, build another municipal hall or road department structure or building, but have you also looked into how much money you could get as far as—I'm not familiar with what type of condition the buildings are in, for example in Port McNicoll and Victoria Harbour, and how much revenue you could get from selling those or leasing those particular buildings.

Mr Walker: Yes, we have. The Township of Tay Hydro-Electric Commission spoke in their submission of leasing the Port McNicoll administration building, and I don't recall the amount that was quoted there but it is not significant. The administration building in Victoria Harbour is of a very unique nature. It's a historical building which was provided by the lumber company to Victoria Harbour as a library. It's a beautiful building. It cannot be alienated from public control. We anticipate the library moving back into that building from the premises that they currently rent for—correct me if I'm wrong. I think the number's about \$2,000 a year.

We do not have buildings that we can sell to raise money towards this addition to an existing building, and we would be very irresponsible should we do something with this building in Victoria Harbour. It's important to the community and it's important to the area both historically and socially. So that again works against us. If we had some nice buildings we could sell and get some capital to put into the building, we would certainly do it.

Mr Hayes: I know that any time when you make changes, naturally there's going to be cost involved, but by amalgamating those three municipalities together, do you not feel that in the long run things would be streamlined and there actually could be savings for the municipalities?

Mr Walker: Yes, I do.

Mr Waters: If I might, Mr Chair—

The Chair: Mr Waters, we have several people who want to continue and if I let you go again I'm going to have to let others. I sense a certain frustration among some members, and we've gone for the hour, according to my clock. I regret, but we do have a number of other presenters.

Mr Conway: This is not on any list then, is it?

The Chair: No. There are a couple of others who are on it. We're going to be here very late, so I just have to exercise the prerogative of the Chair. I want to thank you very much for your presentation.

Mr Jim Wilson: They violate every principle they told us about restructuring. I don't mind sitting here all night, Mr Chairman.

The Chair: I appreciate that. There are other witnesses.

Mr Jim Wilson: Mr Wessinger gave a speech against the resolution I did in the House regarding roads as boundary lines, and I was told it was a cardinal rule that you couldn't use roads as boundary lines.

The Chair: Order, please. I'm in the hands of the committee, but if—

Mr Jim Wilson: It's either a cardinal rule or it isn't. It's either the law of the land or it isn't. I want to know.

The Chair: Mr Wilson, if we are to continue and the committee would like to, it's just that I would then want to make sure that each caucus had an opportunity to speak and not just that there would be one person. So I think if members wish to go on, I'm in the committee's hands, but there are several others who want to speak and in fairness I would have to allow one person from each caucus to ask another question. If that's what people would like to do, then I'm quite happy to do that.

Mr Waters: I can make my point in clause-by-clause.

Mr Conway: I just wanted to make an observation. I was also just assuming, because we combined these two groups—

The Chair: Yes, but we do have some others who—

Mr Conway: If I can make one comment, I think this is a very, very good presentation that really gives me some concern. I'd like to take some time, but I realize that there are pressures of time. But just as somebody who's new to this committee, I'll tell you, this group has made some observations—

The Chair: And I'm sure that we'll be coming back to these issues both tomorrow and on Thursday.

Mr Conway: The trouble I have is that of course they're gone, we're gone, and—

Mr Jim Wilson: Mr Chairman, according to the

schedule, I thought we had this group till 5 o'clock?

The Chair: No. We began earlier. We've been ahead, but we have several other presenters who had sent their requests to Queen's Park and weren't on the list. That's why we've had an hour with this group, and I just think, in fairness to those who came before and those who come after, we've got to keep to that.

Thank you very much for your presentation. We appreciate it.

ROWNTREE BEACH ASSOCIATION
FEDERATION OF TINY TOWNSHIP
SHORELINE ASSOCIATIONS

The Chair: I then call the Rowntree Beach Association.

Mr Conway: Can I make a request?

The Chair: Yes.

Mr Conway: I want an updated list, because I want to know how many more people we have.

The Chair: I can give you the others following the Rowntree Beach Association: Gail Barrie, from the township of Tiny, and Harry Powell.

Please come forward.

Ms Patricia O'Driscoll: I'm Patricia O'Driscoll of Rowntree. I'm by myself.

The Chair: That's great. Alone or with others, you're most welcome.

Ms O'Driscoll: Thank you kindly.

The Chair: We have a copy of your presentation to hand.

Ms O'Driscoll: My apologies first. I was only able to make eight copies, and unfortunately I think you're going to have to share them a bit. I'm sorry.

The Chair: We'll make out.

Ms O'Driscoll: Also, when I was sitting at the back, I noticed an echo. If anybody's having trouble hearing, please let me know and I'll slow down or speak louder or something.

Mr Chairman, members of the committee, my name is Patricia O'Driscoll. During the last 20 years, the Rowntree Beach Association has been an active association. It monitors the affairs of Tiny township council and participates whenever there is an opportunity to become involved in the affairs of the township as they affect taxpayers/voters. Rowntree is an incorporated association of 20 cottage owners along 1,100 feet of the western shore of Tiny's 11th Concession. I speak as the secretary of Rowntree.

Rowntree is also a member association of the Federation of Tiny Township Shoreline Associations, an incorporated umbrella association whose members are the various cottage associations around the perimeter of Tiny township. There are 7,500 properties in the shoreline areas of Tiny, comprising some 18,000

cottagers. I speak also as the secretary of the federation.

Today, perhaps I should be dressed in black to signify mourning. Why? Because if Tiny's boundaries are changed as proposed in Bill 51, Tiny faces destruction, whether it be sooner or later. Tiny is the only municipality to be restructured that loses much and gains absolutely nothing. Short-term assessment compensation, as proposed, is a stopgap. If your land goes, nothing can replace it. Everything is lost. We have all heard the truism, "They're not making land any more."

Bill 51 causes Tiny township to lose 85% of its commercial assessment. Provincial civil servants have said that Tiny will not lose all its commercial assessment, "It still has its cottagers." Tiny township cottage owners appreciate the responsibility we have by owning property in Tiny, but we have rights as well. Our right is not to be used as cash cows and milked dry.

I bring two major reasons why Tiny township should not be restructured. The first one: It is contrary to the wishes of more than 9 out of every 10 voters of Tiny township. In a referendum at the 1991 municipal election, 92.4% of Tiny voters said, "No restructuring."

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In 1989, the Simcoe county council set up a committee "to study the restructuring of the north half of the county." Strange as it may sound, most of the study committee members were from the south part of the county and the original committee included representatives from the city of Barrie, which is not part of Simcoe county. Before anyone realized what had happened, this study committee was redrawing municipal boundaries. But that is another story.

In the summer of 1990, the member associations of the federation met and determined its position about restructuring. A presentation was made to the then Tiny township council. The federation unanimously opposed restructuring and asked Tiny township council if the two representatives from Tiny to Simcoe county council would vote against restructuring. Council voted five to zero to support the federation's position at county council. Several weeks later, Tiny township council again voted five to zero to take a position of no restructuring on behalf of all its residents.

At the first public meetings of the study committee of Simcoe county council to consider restructuring, the then deputy reeve, Ross Hastings, said that while Tiny township council had unanimously voted to oppose restructuring, there were some things that he did not agree with.

Thereafter, Tiny township sent a mixed signal to the Simcoe county study committee. The then reeve led a fight against restructuring and the then deputy reeve frequently voted for motions that eased restructuring.

In July 1991, when Simcoe county council voted on the 126 recommendations, the then reeve cast 126 votes

against all recommendations about restructuring. The then deputy reeve voted 108 times for and 18 times against. Both representatives from Tiny cast their votes against redrawing boundaries for Tiny. But again a mixed signal was sent to their fellow county councillors. The then reeve spoke strongly against redrawing boundaries for Tiny and cast a no vote. The then deputy reeve, before he cast his no vote, spoke to the county councillors and said, "I do not think the reeve speaks for all of the people of Tiny." The vote to redraw Tiny's boundaries passed by only one vote.

Shortly after, the then deputy reeve announced his candidacy for reeve in the upcoming 1991 municipal elections. Headlines in the newspapers carrying that announcement said he was strongly opposed to restructuring. His campaign literature stated, "Hastings says NO restructuring." He won the election. The voters, in a referendum on the same ballot, gave a mandate to the new council: 5,090 voters were opposed to restructuring and 420 voters supported restructuring; 92.4% of the voters were against restructuring.

In January 1992, not long after the November 1991 municipal election and the referendum vote against restructuring had been tabulated, the new reeve, Ross Hastings, and members of council voted, first, to adopt a restructuring position which gave away all the land that the Simcoe county study committee and Simcoe county council wanted to take from Tiny township, and second, adopted a position of a one-ward system with a five-member council.

When council voted to ratify the proposed land grab, council did not follow the mandate it was given to fight restructuring. It was not the position that the referendum told them to take. When questioned, the reeve's frequent answer is, "There is a lot going on and people don't know all the facts."

In the spring of 1993, the township of Mara brought forward a motion to Simcoe county council that, if approved, would have brought an end to the restructuring of the north part of Simcoe county. Many municipalities in north Simcoe were turning against the whole restructuring process: all except those who stood to gain.

Prior to the date of the vote on the motion from the township of Mara, at a meeting of Tiny township council, speakers urged Tiny's two representatives to council to support this motion from Mara. The vote at that meeting of Tiny township council was four to one. Four members of Tiny township voted to support the motion from Mara; they now wanted out of restructuring. The reeve of Tiny, Ross Hastings, listened to the speakers and said he would not support the motion from Mara, he would support restructuring. At Simcoe county council, Tiny's reps cast opposing votes. The reeve of Tiny is also the warden of Simcoe county. As chair of that meeting, he spoke frequently while the vote was

being taken, urging Simcoe county council members to support restructuring and vote down the motion put forward by the township of Mara. The motion from Mara was defeated.

This committee should know that as far as the restructuring of Tiny township is concerned, the voices and wishes of Tiny township's taxpayers have not been echoed in the actions of Tiny township's council. The mandate given by the voters has not been carried out. We ask this committee and the members of the Legislature to listen to the voice of 92.4% of the people of Tiny who said "no restructuring." We ask you to do what Tiny's reeve refused to do.

You will note that the reeve has not come before this committee to tell you that all the voters are in favour of restructuring. Why? Because he has gone on a frolic of his own. Why? That is a good question. I cannot give an answer but I am sure that sooner or later it will all come out in the wash.

The taxpayers and voters of Tiny township have had salt poured into the wound by the present Tiny township council. Apparently, Tiny township council has signed agreements with the towns of Midland and Penetanguishene dealing with the proposed restructuring. Has Tiny township council reported to its taxpayers the contents of those agreements at a council meeting, by interviews with the press or by any means? No, Mr Chairman.

In mid-May 1993, Tiny township council sent out a newsletter with the tax bill. The agreements on restructuring between Midland, Penetang and Tiny had been completed. The agreements were not even mentioned, let alone discussed, in that newsletter, which is attached. Council has never reported to the taxpayers on the terms of those agreements.

There is a second reason why we think restructuring should be abandoned for Tiny.

May I ask the Chairman, is all the committee present? Because there were a lot more people here before than there are now.

The Chair: In the course of our hearings, people are often a bit in and out just for certain calls, but please go ahead because all of this is recorded. It's all taken down by Hansard, so that sometimes one is reading the material later when we come to clause-by-clause.

Ms O'Driscoll: Fine. Thank you.

There's a second reason why we think the restructuring of Tiny should not proceed and that is because of an Attorney General's lawsuit against Rowntree.

In June 1990, the Attorney General for Ontario issued a statement of claim against the Rowntree Beach Association and 14 individual defendants. It is a test case to determine ownership of 16 miles of property on the western shore of Tiny township. The Attorney General is the plaintiff; that is, the Attorney General

commenced or launched the lawsuit.

The Attorney General claims that all land between the line of the wood and the water's edge from Concession 3 to Concession 18 is unpatented crown land. The Attorney General claims that the line of the wood is shown on an early survey map and is located 100 to 1,300 feet inland from the water's edge.

In June 1991, the Honourable Mr Justice Trainor, the regional senior judge of the Ontario Court (General Division), Toronto, ordered the Attorney General to send a notice to all owners whose property titles could be affected by the results of this lawsuit. Some 2,000 notices were mailed out to shoreline owners.

In the summer of 1991, several attempts were made to bring this information before the Simcoe County Study Committee. The study committee voted that it would receive a written submission but would not allow us to speak to the committee.

In my attempts to get an appointment to bring this matter to their attention, I spoke to several members of the study committee. During these conversations I was told that the study committee had never been informed and had no knowledge of the Attorney General's lawsuit, the government's claim to land on the western shore of Tiny township.

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In other words, while the Ministry of Municipal Affairs was involved in discussions about proposed boundary changes abutting Midland and Penetang on the east side of Tiny township, the Ministry of Natural Resources and the Ministry of the Attorney General had begun a lawsuit requesting that the court determine the boundary on the western shore of Tiny.

The Simcoe county study committee, I was told, did not know about the legal dispute on the western shore of Tiny township. Rowntree filed written submissions to the study committee and pointed out, first, that the boundary dispute on the western shore was before the court for determination and, second, that the boundary on the east side of the township, abutting Penetang and Midland, should not be changed as long as the final result on the western shore was undetermined.

The study committee's report did not mention the lawsuit before the court. In the summer of 1991, the study committee allowed the vote on restructuring to proceed, a vote to carve large pieces off the eastern boundary of Tiny township so as to deprive Tiny township of 85% of its commercial assessment.

Following the vote, Rowntree wrote to the Minister of Municipal Affairs, David Cooke, on October 16, 1991, and December 14, 1991, suggesting to the minister that the lawsuit concerning the ownership of 16 miles of Tiny's western shore should be determined by the court before any lines were arbitrarily drawn on Tiny's eastern boundary.

Attached are Rowntree's two letters, together with the minister's letter of November 4, 1991, which responds to Rowntree's first letter. In that letter the minister thanked me for advising of "the existence of a lawsuit affecting the Rowntree Beach area." I never received a reply to the second letter. The potential serious consequences of a lawsuit seem to have gone unheeded.

Someone may say: "Oh, the government of Ontario isn't interested in the property and buildings on the western shore of Tiny affected by the line-of-the-wood theory. The crown is only interested in the beaches, and if the crown wins the crown would abandon everything landward of the lot lines."

That was the message given by the Ministry of Natural Resources at two public meetings in January 1992, but that was an attempt at public relations, "Let's keep everyone calm." However, in the Attorney General's lawsuit, the crown, the government, claims in its statement of claim that all land between the water's edge and the line of the wood is unpatented crown land. That claim has never been varied or amended.

Moreover, those statements about "we shall abandon" were set out in a fact sheet handed out by MNR at public meetings. However, those fact sheets were printed on plain white paper, not on MNR letterhead, and were not signed and nothing to identify the author. Moreover, at trial, counsel for the Attorney General stated, "A civil servant cannot bind a minister of the crown."

The trial has now taken place. It began on May 26, 1993. After 20 days of trial, it ended on July 14, 1993. The court has reserved its decision.

If the Attorney General's claim is upheld by the court and the line of the wood is found to be the western boundary of the lots, Tiny will lose land it now owns. It will also lose assessment. The assessment value of thousands of cottage properties will be lost and/or reduced.

During the trial, evidence was given by a witness for the crown that, in his opinion, the line of the wood extends beyond the original 16 miles claimed. Mr Middleton said it extends around the perimeter of the entire township, not just from Concession 3 to Concession 18 as set out in the statement of claim.

The township of Tiny was surveyed in 1821. It has been around for 170 years. What is the big rush to demolish it? I have no answer why the study committee would not await the outcome of the Attorney General's lawsuit before proceeding.

Is the western shore of Tiny township all crown land, as claimed by the Attorney General and MNR or is it private property? I would have thought that the study committee, Simcoe county council and the provincial government and all the civil servants might want to see the size of the pie before deciding how it is carved up.

In my conclusion I will address three things.

Under Bill 51, Tiny township loses nearly all its commercial assessment from the Highway 93 malls on its eastern borders. Under Bill 51, every municipality is either merged with another municipality or loses something on one side and gets something back on the other side. That applies to every municipality except Tiny township. Tiny is the only loser-loser among all affected municipalities. Why?

I attended many meetings of the study committee. I have yet to hear a valid, logical reason for stripping away 85% of Tiny's commercial assessment base. If the government of Ontario only wanted to ensure that the malls on Highway 93 were serviced by sewers, why didn't the government of Ontario put Tiny on notice? Tiny has never been given the opportunity to consider building its own sewage treatment plant. The malls do not have to be given to Midland to be serviced. Tiny's malls haven't caused any pollution problems. Isn't Midland's sewage treatment plant now at its capacity? Hasn't Midland allowed its own Little Lake to become polluted?

The committee may say: "What's the fuss? The malls are only one commercial assessment area in Tiny." There are no other commercial assessment areas in Tiny. The only other commercial assessment in Tiny consists of corner stores and a few businesses in hamlets.

The only excuse I have heard for giving the Highway 93 malls to Midland is that Midland wants them. That is not a logical reason. Is Tiny being stripped of 85% of its commercial assessment in order to please Midland? Why would the government of Ontario allow Tiny to be crippled? Surely the answer cannot be, "Oh, the cottagers will pick up the slack."

Downloading of services and market value assessment are not part of Bill 51, but it is no secret that they are just around the corner. In the near future, owning a cottage in Tiny township may become a millionaire's hobby. When the rush to sell begins, values will drop, assessment will fall and Tiny will be destroyed.

I would like you to know that this whole restructuring plan was not initiated by a groundswell from the taxpayers and voters of Tiny township. It was a scheme hatched and fuelled by people at Simcoe county council and certain personnel in the Ministry of Municipal Affairs. It has never been on the wish list of the people of Tiny township. The wishes of Tiny township voters and taxpayers have been ignored and trampled upon throughout the whole sad restructuring saga.

My sincere requests to you are that Tiny township be deleted from the provisions of Bill 51, and if restructuring does go forward, I request that the township of Tiny be divided into at least five wards with a mayor and a deputy mayor. Tiny township has the largest number of

voters of any municipality in Simcoe county, yet this Tiny township council without consultation in January 1992 voted for a one-ward system with a total of five members, the smallest elected municipal council in Simcoe county.

Under the provisions of Bill 51, a request to change the one-ward system cannot be taken to the Ontario Municipal Board until after the 1994 election. If the OMB does order multiple wards, it would not take effect until the municipal election of November 1997.

If Tiny's cottagers are forced to support five school boards, surely Tiny's cottagers have the right to a ward system. Representation by population is more than a slogan. It means adequate representation by population.

The Chair: Thank you very much, Mrs O'Driscoll. That was a very full brief. Thank you also for the attachments you've provided.

Ms O'Driscoll: I would request that you read my letter of October 16, 1991, to Mr Cooke. You will see how many letters were written trying to awaken people to the fact of the lawsuit and the boundary that has to be determined by the court and is now under reserved judgement.

The Chair: That was in particular—

Ms O'Driscoll: This is not answered.

The Chair: That was in particular the letter of October 16. Fine. Okay.

Ms O'Driscoll: I wrote something like seven or eight letters in 1991, all of which went unheeded.

The Chair: We'll move then to questions. Any questions on the presentation?

Mr Conway: One hardly knows what to say. I mean, it's very interesting. We don't know when the decision in the court case is going to be handed down.

1700

Ms O'Driscoll: No, it was reserved on July 14. The judge faced thousands of documents and 20 days of testimony, so I think he would be some months giving out his judgement. But it is a very serious matter. Our estimate of raw land was something like half a billion dollars of land is affected in this lawsuit and our plea for two years has been, "Please don't draw lines on the east while you have an issue before the courts that has to be determined by the courts." That is the western boundary of the township.

Mr Conway: Does the Ministry of Municipal Affairs—I know from my happy career as a cabinet minister that judges can sometimes make the politician's life remarkably interesting. If a judge were to do something remarkably interesting in this case, has the ministry got any contingency plan?

Mr Griggs: Well, in fact, regarding municipal boundary changes, whether they're under this kind of comprehensive restructuring or individually negotiated

boundary changes between municipalities, it's generally the position of the ministry that the ownership of the land has no relation to the municipal jurisdiction over that land. The case before the court has to do with the ownership of this land.

Mr Conway: But I can imagine—and, again, I don't know any of the issues really, so I'm just speculating here. But, as I say, my own experience with judges is they're a very interesting group of people and thoughtful. But the best-laid plans of policy-makers are sometimes tipped into a cocked hat by judicial pronouncements and I'm just trying to imagine. What are the range of possibilities here?

Ms O'Driscoll: Very limited.

Mr Conway: All right, but what's the best-case scenario from your point of view? What would you most like the judgement to find?

Ms O'Driscoll: First of all, if I may answer it by saying that you're all politicians, you can go to meetings and you can say, "Maybe a little bit of this and maybe a little bit of that and we'd like both sides a little bit, so we'll do something for each." A court of law does not function that way. A court has to determine the issue before it, and the issue before the court is: Is the line of the wood a boundary? The judge has no ability to say, "Gee, I feel the people should have the beaches, but I think the people should have their cottages, so I'm going to sort of do something different." He hasn't that ability. His ability is to decide on the issue, and the issue before the court was simply a boundary issue: Is the line of the wood a boundary of the western boundary of the lots of Tiny township, or is the water's edge the boundary? It's in the process, it has to be determined, the lines on the east are arbitrary.

Mr Conway: Let's say for the sake of argument that the court finds it's the line in the wood. What are the practical implications of that?

Ms O'Driscoll: The practical implications are that the claim was: If the line is the boundary, everything between the line of the wood and the water's edge was—there is unpatented crown land, that all of the cottages on that land, all the registered plans of division that are on that land at the moment were really there by mistake; it was all a big mistake; the crown has retained that land always and we shouldn't be there.

Mr Conway: But I am a politician and as a practical matter I'd say, "Well, all right."

Ms O'Driscoll: Well, then, I can't tell you the lawsuits that are going to ensue after that, because there are at least 2,000 homes in the front row and where the line is 1,300 feet deep we have four or five rows of cottages and we've all been there on registered plans of subdivision. The government has kept quiet about this claim for 170 years. We've paid taxes. All kinds of things come into it. But the matter before the court is:

Is the line the boundary, and if the line is the boundary everything is unpatented crown land and it's not owned privately; it's owned by the government.

Mr Conway: I take it that it's the view of the ministry that's probably not a realistic possibility, that the—

Mr Griggs: Well, again, that's—

Mr Conway: I only remember as an Education minister that the courts were always doing interesting things to me in north Simcoe. Just when I thought I had it all figured out in north Simcoe, I got another judgement from a court that was really interesting. So—

The Chair: The parliamentary assistant has a number of comments on that and other issues. The parliamentary assistant, do you want to just answer that?

Mr Hayes: Do you want to go first?

Mr Griggs: Can I just answer that question first of all?

Mr Hayes: Go ahead.

Mr Griggs: I think we should keep in mind that the court cases regarding property lines and the ownership of property—the restructuring has to do with municipal boundaries and areas of municipal jurisdiction.

Mr Conway: Yes, but if I'm in the municipality, I'm kind of interested in assessment and financial capacity. I'm just theoretically assuming—I might be wrong—that a really interesting finding from the court could have very practical implications around property values, assessments, and if I were on the local council, I'd sure be interested.

Mr Griggs: Again, I can't speak to that.

The Chair: I think the courts will make their decision in due course.

Ms O'Driscoll: The courts will make the decision. All I wanted to bring to your attention was the fact that at every level up for two years, as much as we have tried to bring this to people's attention, it has been ignored. The very serious thing is that you are considering drawing a line and taking land from Tiny and giving it away. That is an arbitrary decision that will be made by politicians, by the Legislature, but the other has to be decided and we're saying it should be decided first.

The Chair: The parliamentary assistant has a few—

Mr Hayes: I can certainly sympathize with you in your concern about the—

Ms O'Driscoll: I'm concerned for Tiny.

Mr Hayes: Okay, your concern for Tiny, but at the same time, when you're talking about the court case, this restructuring really doesn't affect that.

Ms O'Driscoll: Yes, it does.

Mr Hayes: You're talking about the ownership of properties, and I think we're confusing property boundaries with municipal boundaries. We're talking about

restructuring, whether there's a court case on who owns the property or not, you're still talking about the property within the municipality, not the specific ownership of the municipality.

Mr Conway: But isn't the argument though, Pat, theoretically—suppose they got a decision that changed what people thought was the ownership? I would just think, if I were on the council, that would have a real impact because then lawsuits and values go up, down or sideways.

I represent a fair bit of lower, not-as-valuable property. But did you ever get into these situations where a bunch of cottages find out, for example, that they are built on a reserve—you know, the 66 foot—and then their bankers tell them, "Fine, we're not giving you any more mortgage financing"? You get into very real questions about values and assessments and all the rest of it immediately if there's any question around these ownership issues. At least, that's been my experience.

Mr Hayes: I'm not going to get into a long discussion on it. Let's accept that. Those things can happen whether you have restructuring or not, right, and I think that's the point I'm trying to make.

Ms O'Driscoll: If I may answer you, Mr Hayes, this is the largest case in land lot to ever go before the courts in the province. It's true it's a case of ownership, and you are talking about restructuring and boundaries, but I'm taking it from the point of view of taxes, that if we lose 85% of our commercial assessment, the taxpayers of Tiny are going to have to make up that difference. If in the process the land on the western shore is found to be unpatented crown land and all the land values drop, where is the township going to get its taxes from?

Mr Hayes: On page 11 on your conclusion where you talk about, "Tiny has never been given the opportunity to consider building its own sewage treatment plant." Don't you think it would be less expensive if the need was there for Midland to expand the plant rather than a small municipality like Tiny trying to building their own plant?

Ms O'Driscoll: First of all, Mr Hayes, I'm not a financial consultant, so I wouldn't guess the cost. But I do know that there is a move towards individual municipalities getting their own sewage treatment plants. All I was raising was the fact that has Tiny ever been given the opportunity to even cost it out? What is the rationale to give the malls to Midland? If it's to service them, did Tiny get an opportunity to service them before they were taken away from them? You have that opportunity to decide that.

Mr Hayes: How long has that been there?

Ms O'Driscoll: I'm sorry?

Mr Hayes: The malls that you're talking about, how long has that been there?

Ms O'Driscoll: I don't have an exact date.

Mr Hayes: Just roughly.

1710

Ms O'Driscoll: I think they're around 20 years. My understanding—although I don't like talking of understandings, I'd rather talk of facts—is that Midland had an opportunity to get those malls years ago and they didn't want them. But now that they are producing tax revenue, I think they would like them.

The Chair: Thank you very much for coming before the committee and for your presentation. We appreciate it.

Ms O'Driscoll: Thank you kindly.

TOWNSHIP OF TINY

The Chair: If I could then call on Ms Gail Barrie, councillor from the township of Tiny. We have copies of the documents which you gave to the clerk.

Ms Gail Barrie: Mr Chairman, I would like to delete the sentence that starts with "to this hearing today," because I very much feel that there are people listening here.

The Chair: I'm sorry, we were just getting our material organized here.

Ms Barrie: When I come to it, I'll point it out to you.

The Chair: Okay, fine.

Ms Barrie: All right? I'm here to speak on restructuring and I'm here as an elected representative of Tiny township. I'm pretty sure I'm speaking for the majority of them.

This submission is presented with respect and appreciation for the opportunity to be heard. It is also submitted as a former member of council for Midland for six years during an annexation attempt to get the same lands that they are now being handed from Tiny. I am a sitting member of Tiny council presently, so I feel I have a good sense of the issue and the situation from both sides.

Could I say at the outset that throughout this effort, Tiny township maintains an extremely unique position in the entire county of Simcoe. We stand to lose and we stand to lose big-time: 85%, as you have heard, of our commercial assessment, 20.7% of our total assessment.

It's with great concern and—as I say, it was in a bit of haste to get this presentation ready, but they are my personal views on behalf of my electorate on the restructuring of Simcoe county. It was my understanding that input at the committee level here would help to clarify that the restructuring exercise is not entirely in the best interests of its taxpayers, especially those of the township of Tiny.

From the outset, the vast majority of Tiny township have fought long and hard against restructuring. Your committee's mandate is to hear people on this issue, but

how many times must they say no before they get listened to? There's a big difference there: hearing and listening.

The process has been flawed since its inception, right from the fact that there's the appearance of it being a done deal before it formally began; right from its inception to the structure of the initial restructuring committee at county level to the transition committee. What I want deleted is "to this committee," because, as I say, I really feel that we have some ears here today. I think there is some listening going on.

To this date, the township of Tiny has received no guarantees from the government that the compensation package, as agreed to between Midland and Tiny, is valid. The reason for that is, Midland supports Tiny's position on compensation only as long as it receives the major funding of this package from the province. We have seen no guarantees that this is forthcoming.

The county, then, on the other hand, and the province have said that we must negotiate with Midland to be heard. It's like being caught in a vice. It's a bit of a catch-22 situation.

As an elected representative of the township who voted no to the compensation package for the above reasons—that being no guarantees forthcoming—I would ask that over 90% of our taxpayers be heard, as this appears to be the reason for this hearing. Politicians should not ponder any more why there is such an absence of trust in them from their taxpayers. It is exercises such as restructuring of north Simcoe on a guinea pig level—and this is the feeling of a lot of the electorate—that instills such lack of good faith in our elected representatives.

I would respectfully ask that the impact of the south Simcoe restructuring be analysed before we compound mistakes already made. Because dollars have already been spent on the implementation of parts of the study does not mean we should throw good money after bad and in my view is not a valid reason to pursue a path that was flawed from the beginning.

Very respectfully submitted. Thank you.

The Chair: Thank you very much for coming before the committee today and for your submission. We'll begin the questioning with Mr Wilson.

Mr Jim Wilson: Thank you, Councillor, for your presentation. I would like to ask the parliamentary assistant—

Mr Hayes: He waits till I get up.

Mr Jim Wilson: It's not that bad, Pat. Just for the record, though, if the parliamentary assistant could tell us right now what the province's position is with respect to the compensation package from Midland being offered to Tiny, because Councillor Barrie has made it clear, as have other presenters, that it's certainly the understanding at the local level that Midland can't

be serious about the compensation package unless the province is serious about paying for—I think the figure was 43%, and Midland would have been 57% of the compensation package. So perhaps we could hear that from the government.

Mr McLean: They're not too sure. He'll get around it.

The Chair: Mr Hayes. Did you get all of the question?

Mr Hayes: I think so, yes. It's the same one that was asked earlier, I think.

Mr Jim Wilson: And I'm waiting for an answer, Mr Hayes.

Mr Hayes: And I think it was one that the mayor from Midland, I believe, addressed. There is an agreement with Midland and Tiny township, and there's agreement between the province and Midland. The agreement is that they would pay, I think, 57%—am I correct?—Midland, and 43% for the province. If I may, can I ask him to come over.

The Chair: If a representative from the ministry would perhaps—

Mr Hayes: I would just prefer that for the benefit of the members and the people from the municipality, they are able to hear it first hand, rather than my trying to interpret it and maybe say the wrong thing. I don't like to do that.

The Chair: If you'd be good enough just to identify yourself.

Mr Rick Temporale: Rick Temporale. I'm with the Ministry of Municipal Affairs. We sat down with the town of Midland last week and negotiated the province's share of the package that Midland will pay to Tiny township, as they negotiated earlier on in the year. This happened late last week. We got the confirmation that the town has accepted that proposal as of Monday morning.

Mr Jim Wilson: We did hear from both sides of the agreement, though, that there's nothing in writing at this point. Is that true?

Mr Temporale: With us and Midland? No, there is nothing in writing.

Mr Jim Wilson: When do you expect to actually sign an agreement, or is that procedure in this case?

Mr Temporale: No, that isn't a procedure. The minister will write Midland a letter thanking them for accepting the package and negotiating a package with the province, and the payment schedule will begin as negotiated between Midland and Tiny.

Mr Conway: For the benefit of the committee and the witnesses, would the representative from the ministry just highlight the elements of that package?

Mr Temporale: The highlights of the package have to do with payments to Tiny township in relationship to

its lost commercial and industrial assessment based on its 1993 mill rates and its 1992 assessments for 1993 taxation purposes.

Mr Conway: For what period of time?

Mr Temporale: Tiny will receive money from the town of Midland for the next nine years: 100% of that loss for five years, and phased down over the next four.
1720

Mr Waters: When does Tiny get that in writing?

Mr Temporale: Tiny has that in writing. As a matter of fact, their council passed a resolution—

Interjection.

Mr Jim Wilson: They passed a resolution, but what we didn't have was the province's acceptance of that. That is my understanding.

Mr Temporale: The province has always accepted that. It was conditional upon the province and Midland agreeing on the package.

Mr Conway: That's very helpful. Thank you very much.

The Chair: Just to be clear, then, there is a letter that is going to Midland setting out that understanding?

Mr Temporale: Yes.

The Chair: Mr Waters, did you have a question?

Mr Waters: I just have one other question, and it relates to the previous presenter. As a representative of the township, of the council—and you sat and heard the presentation—could you comment about, from the township's point of view, the concerns as a council, if you can?

Ms Barrie: I wouldn't at this point because it's before the courts, and I represent the entire township, not just one area.

Mr Waters: Okay.

Mr Conway: You're asking Ms Barrie to comment on which submission?

Mr Waters: The previous one.

The Chair: Mr McLean?

Mr McLean: I've asked my questions. I'm going to let you off easy, Gail.

Ms Barrie: Thank you, Al.

Mr Conway: I appreciate the witness coming. Does the information you've just received about the nine-year compensation package give you some added comfort?

Ms Barrie: Restructuring has never given me any comfort in any way, shape or form.

Mr Conway: So would I be right in saying that you are an implacable foe of any kind of—

Ms Barrie: Let's just say that—

Mr Conway: There's nothing wrong with being implacably opposed to some things.

Ms Barrie: No. I believe I had previously said that

I had several positions on it, and let's say that that may be halfway down my list of preferences.

Mr Conway: What do you think, from your point of view—and you've had the unique experience of serving on both the Midland town council and now at neighbouring Tiny. It's been said, and I think understandably so, by a lot of people that, yes, there's a lot wrong with Bill 51 but there are a lot of problems out there that somebody is going to have to deal with. Assuming that we're just not all going to be ostriches and put our heads in the sand, what does Gail Barrie think might be—and at this point it may be that between Midland and Tiny there aren't a great number of difficulties. But what, if anything, given what you know about the municipal agendas of both communities, Midland and Tiny, do you think should be done to amend the status quo? Or is the status quo, all things considered, about as good as it's going to get for the next generation?

Ms Barrie: I would like to say at the outset there that two minor good things happened through restructuring. We lost a little bit of the liability for Penetang bay, should it become more polluted, and we've got Waverley into one community instead of four. But if you're asking me what I think an ideal situation would be—

Mr Conway: Not an ideal situation but a reasonable one. Ideals don't interest me.

Ms Barrie: Highway 93. Give me Highway 93 as a boundary. And then I sat here and listened to Jim and others speaking about roads as boundaries, so I'm sort of shot down before—

Mr Conway: No, no, it's what you think. Wilson and Conway and Waters have their own opinions. I'm interested in what you think.

Ms Barrie: Where I'd like to see it be?

Mr Conway: Is the status quo as between, say, Midland and Tiny, from your point of view, having served on both councils, perhaps as good as we can reasonably expect it to get for the next while?

Ms Barrie: I don't believe a need has been shown to go into Tiny. I don't think that need has been shown to a good degree. Ideally, leave us alone. In my own opinion, if it must be done, do it at 93. Don't take all of our commercial assessment.

Mr Conway: Thank you very much.

The Chair: Thank you, again, very much for coming before the committee and for your submission.

HARRY H. POWELL

The Chair: I would then call our last presenter, Mr Harry Powell, if Mr Powell would be good enough to come forward. We have received a copy, Mr Powell, of your submission. Once you're settled, please go ahead.

Mr Harry H. Powell: My name is Harry Powell. I'm from Tiny township. You might call me a hobby farmer because I'm retired and I grow trees—oxygen for

people to breathe—horse pastures, things like that, and big gardens.

This submission of mine is sort of a last-minute thing. I'll read it out.

At the November 1991 municipal elections 7,100 Tiny township voters turned out to vote. On an accompanying ballot 5,090 voted against restructuring; that's about 72%. This would indicate a travesty of democratic justice, if one still believes in the myth of true democracy.

The voters of Tiny township were subjected to what amounts to a betrayal of a sacred trust when their reeve and deputy reeve voted in favour of restructuring.

Through the clever manipulation of Simcoe county council voting procedures and the support of certain cronies, mostly from the already restructured south end of Simcoe county, the opponents of restructuring were beaten by a very small majority. In fact, I think that some of these southerners of Simcoe County ought to take a tour of Tiny township and see the beautiful, pristine area we have here: cottages, beautiful water, forests and farm land.

Ross Hastings became warden of Simcoe County in December 1992. When this happened, he was in apparent conflict of interest. He was originally elected by the voters of Tiny township to represent them, not Simcoe county, and had no mandate from them to undertake restructuring. Because of his exalted county position, he appears to have thought it more expedient to attend to county business rather than Tiny township, as evidenced by his appearance at a harness race in Barrie one evening last fall rather than a very important Tiny council meeting where ratepayers wanted answers to some very embarrassing matters.

Mr Frank Hughes attended every Simcoe county council meeting dealing with restructuring, and his voluminous and detailed reporting appeared in the Quill and later the Observer newspapers. He devoted hundreds of hours of his time voluntarily and without remuneration, all in the interest of people's rights and attempts to maintain the status quo. A tip of the hat goes to him in this truly conscientious effort. He is an outstanding citizen of Tiny township and also one who is a bona fide veteran of the Second World War. He's also a lawyer.

Midland, which is expected to make the big grab from Tiny township and other parts, is embarrassingly poor financially. Where is the money to come from to meet its expected fiscal obligations in these days of fiscal poverty? In Midland, there is still a good half-mile stretch of residential area, after all these years, on the south side of Yonge Street up to Highway 93 where the homes are on septic systems—and they are good

homes too—which drain downhill to Little Lake. That's a part of Little Lake Park. An article and a picture last week in the Free Press showed erosion as a result of a heavy water runoff after a storm flowing into Little Lake. There is also a possibility that sewage from the residences may also be flowing.

The Chair: Thank you very much, Mr Powell, for coming before the committee.

Mr Conway: I guess we'll probably get a chance later in the proceedings to question the warden of Simcoe county—he's also the reeve of Tiny township—but was any argument advanced by these municipal representatives from Tiny as to why they changed their positions?

Mr Powell: Which representatives?

Mr Conway: You start your submission by indicating that in the municipal elections of 1991 Mr Hastings and the deputy reeve—certainly Mr Hastings, according to your presentation—campaigned, you say, against any kind of restructuring in 1991. Is that correct?

Mr Powell: Not the reeve; he was also for restructuring. He also made a statement that in 10 years' time this will be one huge region. He had a negative approach to the whole thing.

Mr Conway: I'm trying to understand your brief. I take it that you're telling us that Mr Hastings, when he was campaigning for the reeveship in 1991, did so on the basis that he was opposed to restructuring.

Mr Powell: No, he wasn't opposed. He tried to let on that it was. They set up a great big committee to fight restructuring. It was a sham.

Mr Jim Wilson: Maybe I could help out here. In the 1991 election—and I have the clippings in the car—Mr Hastings clearly stated that he was opposed to restructuring, in the newspaper clippings I saw.

Mr Powell: Before that—I forget what month it would be, June 1991 or something—when Lancia was still reeve, Hastings opposed Lancia at a vote that they had and he lost out by about two or three votes. I have clippings, I have stacks of stuff like that on restructuring. If anybody is interested in Frank Hughes's writings, I've got stacks of stuff.

The Chair: Mr Powell, thank you for coming before the committee this afternoon. We appreciate it.

Members of the committee, this concludes our session in Midland. May I, on behalf of all the members, thank those who came before the committee this afternoon and also those who have been sitting and listening.

We will be meeting tomorrow in Collingwood, at the Royal Canadian Legion Hall, beginning at 9 am. This committee now stands adjourned.

The committee adjourned at 1733.

Continued from overleaf

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

***Chair / Président:** Beer, Charles (York North/-Nord L)

***Vice-Chair / Vice-Président:** Eddy, Ron (Brant-Haldimand L)

Carter, Jenny (Peterborough ND)

Cunningham, Dianne (London North/-Nord PC)

Hope, Randy R. (Chatham-Kent ND)

Martin, Tony (Sault Ste Marie ND)

McGuinty, Dalton (Ottawa South/-Sud L)

***O'Connor, Larry** (Durham-York ND)

O'Neill, Yvonne (Ottawa-Rideau L)

***Owens, Stephen** (Scarborough Centre ND)

***Rizzo, Tony** (Oakwood ND)

***Wilson, Jim** (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs O'Neill

Hayes, Pat (Essex-Kent ND) for Ms Carter

McLean, Allan K. (Simcoe East/-Est PC) for Mrs Cunningham

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Hope

Wessenger, Paul (Simcoe Centre ND) for Mr Martin

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Griggs, Jeremy, fact-finding officer, municipal boundaries branch

Hayes, Pat, parliamentary assistant to the minister

Temporale, Rick, chief negotiator, municipal boundaries branch

Clerk / Greffier: Arnott, Doug

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**Legislative Assembly
of Ontario**

Third Intersession, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième intersession, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 25 August 1993

**Journal
des débats
(Hansard)**

Mercredi 25 août 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

County of Simcoe Act, 1993

Loi de 1993 sur le comté de Simcoe

Chair: Charles Beer
Clerk: Doug Arnott

Président : Charles Beer
Greffier : Doug Arnott



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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Wednesday 25 August 1993

The committee met at 0903 in the Royal Canadian Legion Hall, Collingwood.

COUNTY OF SIMCOE ACT, 1993

LOI DE 1993 SUR LE COMTÉ DE SIMCOE

Consideration of Bill 51, An Act respecting the Restructuring of the County of Simcoe / Loi concernant la restructuration du comté de Simcoe.

TOWN OF WASAGA BEACH

The Chair (Mr Charles Beer): Good morning, ladies and gentlemen. This meeting of the standing committee on social development reviewing Bill 51, An Act respecting the Restructuring of the County of Simcoe, is now in session. We're pleased to be here in Collingwood for our hearings this morning.

We have a very full agenda and so, without further ado, I would call upon Mr James Abbs, a planner for the town of Wasaga Beach, if he would be good enough to come forward. Welcome to the committee, Mr Abbs. It's going to be a warm day. We appreciate your taking the time to come. Please go ahead.

Mr James Abbs: I'd like to thank the committee for the opportunity to present the view of the town concerning this restructuring.

The town of Wasaga Beach has been undergoing restructuring in one form or another since being created by the province in 1974. The town was created by amalgamating the original village and parts of the townships of Flos, Sunnidale and Nottawasaga. The restructuring of the administration of this area was partially undertaken to facilitate the creation of the provincial park.

At that time, there was some resentment between the various areas of the new municipality, and over the past number of years the town has been concerned with those rivalries and has taken care that improvements and developments take place with no regard to former township boundaries and with the best interests of the town in mind. With the assistance of various community groups, a responsive council and the passage of time, these rivalries have diminished to a point where they no longer exist and it can be truly said that the town of Wasaga Beach is a community.

It is because of that spirit of community that the council of the town of Wasaga Beach asked for an amendment to the proposed County of Simcoe Act to retain the right to choose the way municipal councillors are elected.

One main reason for the restructuring of the county is to alleviate any inequities at that level of government.

Apparently, the concern that all municipal government is not responsive has filtered through to affect the way representation is provided at the municipal level. The proposed County of Simcoe Act will require that municipalities identify wards for the next municipal election. A change like this is understandable in some areas, because serious reorganization is taking place, and in those areas a ward system of elections may provide a more appropriate form of representation.

However, through this restructuring program the town of Wasaga Beach will experience an increase in population of approximately 600 persons and even fewer electors. It is apparent that a small change such as this does not warrant the reformatting of the town's electoral structure.

Another reason that a ward system should not be applied to Wasaga Beach is that the council of the town does not wish to identify areas of special interest within the town. Whether the new wards are based on population, geography or history, it is inevitable that the wards will become areas of special interest, each representative concerned only with the benefits provided to the residents of that particular ward and with little concern for the best interests of the town.

It is well known that all councillors elected within the town of Wasaga Beach are equally accountable to all residents. In a small town this ensures that the resident has more than the ear of just one representative on council. The councillors are responsible to each resident, not just to those electors in one specific area.

On February 9, 1993, the council of the town of Wasaga Beach passed a resolution requesting an amendment to Bill 51 to allow the town to continue to elect municipal councillors at large rather than through the ward system. At the March 23, 1993, meeting of county council, a resolution was passed requesting that the Ministry of Municipal Affairs amend Bill 51 to allow the town of Wasaga Beach the opportunity to choose the system of electing municipal councillors.

It was felt at this time that the town's electoral system would not be required to change after the restructuring had taken place. The proposed County of Simcoe Act has now received second reading and it does not appear that the requested amendment regarding the system of elections in the town has been included.

In 1974 the province created the town of Wasaga Beach as a municipality. A great deal of time, commitment and caring has turned that municipality into a viable community. Splitting this community into districts, each with its own special interest, may revert

the town to a municipality again with no sense of community.

Therefore, I request that the proposed County of Simcoe Act be amended to include the provision for the choice of the type of electoral system available to the town of Wasaga Beach.

Mr Jim Wilson (Simcoe West): Thank you very much for your presentation. You're dealing with the one point that has been requested all along by Wasaga Beach, and that is to maintain the status quo with respect to the election of councillors. I have an amendment to put forward tomorrow in clause-by-clause to that effect, but it is my understanding—and perhaps I'll just ask the parliamentary assistant to clarify—that the government is friendly to that amendment to this legislation. Is that true?

Mr Pat Hayes (Essex-Kent): I think, as we stated before, especially as it's the county council's restructuring plan, that it has supported that. So we can certainly look favourably upon that.

Mr Jim Wilson: Mission accomplished, I suppose. Thank you very much.

Interjection.

Mr Jim Wilson: It's sitting in the back seat of my car, if you'd like me to go out and get it.

Mr Abbs: Can I have a copy?

Mr Jim Wilson: Yes. It was faxed to me last night.

Mr Sean G. Conway (Renfrew North): A good submission; a good response. We're making some progress.

The Chair: Thank you very much, Mr Abbs.

0910

PETER STRANSKY

The Chair: Our next witness is Mr Peter Stransky. Welcome to the committee, Mr Stransky, and please make yourself comfortable.

Mr Peter Stransky: It's nice to be the skunk at the garden party. It seems to me to be quite an irony that a government which has a \$10-billion one-year deficit is coming here to advise us about running a county government with its dog and pony show.

Mr Chairman, Mr Clerk, members of the committee, fellow laymen, my name is Peter Stransky. I live and have lived in Nottawasaga for 25 years, in the northern- and westernmost part of Nottawasaga, a locale currently destined to be a part of Collingwood. I do not accept that fate and that is why I am here, among other reasons.

My needs, and I believe the needs of a large percentage of Nottawasaga people, are adequately served by the frame of rural government that has existed for over 150 years. I can recall hardly anything that has been highly bothersome that has taken place in Nottawasaga government in the 25 years I've been a resident. I like

rural government because it is efficient, simple and less complex than a town or urban government.

Collingwood, in the 30 years I've been living around here, has had a continuing mediocrity in government. It is costing its taxpayers dearly. I happen to be a self-employed businessperson with a business location within one kilometre of this site and I can't get services from the town like patching the road or getting the bylaw enforcement officer to do his job, the planner to do her job or the police to do their job.

My place was broken into—a break and enter—over three months ago. The police have a pretty good idea who it was. No charge has been laid. It's puzzling. Yet I'm supposed to pay my \$110 a week in taxes and keep my mouth shut or be asked to leave town by the reeve. If you'd like to know what that's about, see exhibit A over on my U board at some point in time, a rather unique way of handling people who differ with the establishment.

I'm a Nottawasaga resident by choice and have a pride and interest in my home community. What is wrong with that? In the course of my business, which is dealing with rural people around the province engaged in agriculture and the forest products game, I know a good many Reeves and councillors in rural government. Mostly, I consider them very adequate and capable, unlike the Collingwood people, who are barely making the grade. I point you to exhibit B on my U board.

There was something unique in one of the town papers, ratings of the various town councillors. It's interesting: "We don't expect any opposition," said Mr Ellmen. "Is your mind already made up?" "The signs all point to the bill not being contested." I'm quoting Eugene Ellmen, spokesperson for Ed Philip, Minister of Municipal Affairs. See exhibit C. That quote is attributed to him on my U board. From nearly day one, when the former Minister of Municipal Affairs addressed a hostile crowd 15 to 18 months ago and told an audience at the Simcoe county buildings—I refer to Mr Dave Cooke—provincial government people have not been listening to the people of Nottawasaga.

The voting structure for Simcoe county at county level is flawed. The larger communities have the clout. To fix that problem by the proposed scheme is not just. If the voting formula had been fixed, and not the proposed restructuring, we'd have few people up in arms.

In the case of Nottawasaga, the system has served the people well for over 150 years. As they say, when it ain't broke, why fix it? I can't help but feel that the same applies to various other of the municipalities, except for Collingwood. They have a hard time making anything work well.

Is it not perhaps time that the higher levels of government started listening to the people and not just the

politicians? This provincial government has succeeded in getting a lot of people mad at it. Could this be an opportunity to have a turnaround that's overdue? As a business person, I have always believed, "Give them what they want, because if you don't, someone else will."

Since a first meeting of the county restructure committee, with two county council people on it, just about two years ago exactly, a quarter of a mile from here at Sunset Manor, the people of Nottawasaga have been enraged about this matter. If there are communities that are cooperating and not opposed to restructuring, here's an idea for you. Why don't you take them to the altar only, those that want restructuring? To those communities that don't want a shotgun wedding like Nottawasaga, please leave us alone.

When people like the reeve of Collingwood come out and say things like, "Nobody in Collingwood is against restructuring," I say he's not living in the same world. That's quoted from a local paper on here. He was quoted as saying this at a council meeting last April.

The town of Collingwood, or at least its elected reps and some department heads, have delusions of grandeur, talking of Japanese sister cities, sending the skull and bones of the Collingwood shipyards from Moose Jaw to Moncton to soothe the ego of the museum's curator, just because there's funding by the feds to the tune of \$165,000. Funding is talked about as though it's that new species of tree that grows money.

A local park has spent \$225,000, \$250,000, an absurdity of the parks and recreation department. It's newly recognized as not up to standards or unsafe. Instead of dismissing the department head for dereliction of duty or incompetence, the town will do nothing. I believe this town needs a couple of firings at department-head level to electrify it so that it can render services at realistic cost and with efficiency.

I read you a brief letter here that has a little eloquence, I believe, on the matter from a Nottawasaga resident:

"We are writing to express our opinion regarding the proposed restructuring plan.

"We are aghast at the temerity of anyone, particularly one whose purpose is to represent the interests of their constituency, to be a party to the generation of such a massive and unjustifiable realignment of powers and boundaries, without having the common decency to directly consult those who would be significantly and unalterably impacted. If this had been an environmental issue, we would have been surveyed and consulted to distraction. However, since the issue involves mere humans and not chipmunks and wild flowers, it is deemed not necessary to consult us. Mother Nature has all the rights; taxpayers apparently have none. Seems things are normal in good old Ontario.

"Have the Simcoe county officials not learned anything from the recently expressed mood of the provincial electorate? Have they not learned from the mood of Canadians which overturned the Meech Lake accord? Have they not learned from the total disdain which is heaped on our"—former—"Prime Minister by the electorate? But what can we expect from them? Their proposed restructuring plan displays little intelligence and limited contact with reality.

"The restructuring plan shows no sensitivity to people nor to the public interest; is not progressive but is retrogressive in the extreme; will thrust one more layer of government into the lives of people who are already overgoverned; will increase the tax bite on a people who are already the most heavily taxed in the world; will slow down approvals dramatically to the point that nothing gets done; will remove local decision-making and make it remote and inaccessible; will discourage investment in Simcoe county and thus decrease employment opportunities for county residents; will discourage initiative and creativity and encourage the opposite; will destroy community identity and a sense of neighbourhood.

"The plan does not have a clear and credible objective and seems to be more driven by animosity than by cooperation."

In the course of preparation for this hearing, and I'm coming to an end shortly, I have come across something rather bothersome. I think I'd better say I'll take this up with the clerk after.

I will close by saying I hope you came here today to listen, and not with your minds made up like I fear. Remember these words that I spoke. I stood aside and watched as they trashed my country's heritage to remake it in their image. I stood aside and watched while a vocal few used free speech to deny it to others. I stood aside and watched as they talked about sharing and caring and stripped me of my rights as an individual. I will stand aside no longer. Nottawasagans, join me.

0920

Mr Jim Wilson: Thank you, Mr Stransky, for your presentation. It's good of you to come and to put your views on the public record. You obviously have strong views with respect to the matter of restructuring. Those views, I gather, are shared by your neighbours. Have you talked to the people in your area?

Mr Stransky: Yes, I certainly have and I think I am in touch with the electorate. I ran, Mr Wilson, as you probably recall, unsuccessfully for the school board here a year and a half ago and managed to come second out of four. The person who got the job was the incumbent.

Mr Jim Wilson: As you know, one of my many concerns about restructuring has been the process to date. Where the people in the north part of Nottawasaga

township clearly—I think you'd probably agree they weren't listened to, but did you have an opportunity for input, up until this point, in the restructuring process?

Mr Stransky: Well, it was already a fait accompli, Mr Wilson. There were gatherings; there was a gathering here at Sunset Manor, 200 to 300 howling people two years ago exactly, very much against it, a gathering of 125 people in Nottawa at the town or township hall, very disturbed about this. It falls on deaf ears and that's my greatest fear here today. I feel there's been adequate communication but it's not—their minds are made up.

Mr Jim Wilson: Was there a referendum held in the last municipal election? If so, what were the results? Do you know?

Mr Stransky: There was a referendum, as most of us know. On my board over here it shows a fax transmittal, copy from the clerk's office, of the 85% who were against restructuring and only the 15% who were for it.

The Chair: Thank you very much, Mr Stransky, for coming today and also for bringing the information on your U board.

TOWNSHIP OF NOTTAWASAGA

The Chair: I now call the next witness, the reeve of the township of Nottawasaga, Carol Currie, if she would be good enough to come forward. Welcome to the committee.

Mrs Carol A. Currie: Thank you very much, Mr Chairman and members.

The Chair: Please make yourself comfortable. We have a copy of your submission.

Mrs Currie: Yes, you do.

Thank you, Mr Chairman and members of the committee, for allowing this time to once again express our opinions on restructuring as it applies to Bill 51. I want to touch on three small matters, but very significant to us and many of the presenters. One is the short notification period. Under the Municipal Act and the Planning Act, we're given lots of time, between two weeks, three weeks and 30 days, in which to have a notification period for any public meeting. I received the letter from this committee on August 16, had to apply for presentation on August 18 and prepare for perhaps Monday of this week. Even Bill 51 has provision for notification times of 30 days in some of the areas of it.

Number two, I think the time isn't quite cricket here. As you are all well aware, all of the three parties, the AMO conference is on in Hamilton. There's good representation of the over 800 municipalities in Hamilton at this time. I feel very strongly that this is not the time to be calling meetings when our representatives are at that conference. That date is set a year in advance.

Also, in giving credence to our people to be here to support us, for rural areas this is harvest time and when

it's time to harvest, it's time to harvest. It's also holiday time.

The third thing which disturbed me greatly: The other night, at the heads-of-council meeting, Mayor Maynard of Stayner informed us that someone from the NDP government, and I do not have that name, had called him at least three weeks ago now and pleaded with him to appear before this committee and make a friendly presentation on restructuring. I don't feel it is right that any person, any committee member or any person who might make a presentation, should be notified ahead of anyone else. That information can be verified if you wish to do so by talking to the mayor of Stayner.

The introduction to my submission goes back somewhat to the history. I did courier to Mr Wilson, who is our member, some of the presentations that I or my council have made over the last four years, starting in 1989. Since the initiation of that study, Nottawasaga has chosen every opportunity it has had to speak out against restructuring and outlining all of the pros and cons as we could see them, and there weren't very many pros. I wanted to point out to you that, "Land use planning can be defined as a municipality's collective decision on how best to use its land base in order to provide for a safe, healthy and vibrant community which addresses the needs and desires of its present and future inhabitants." That's from the final report of the study committee of Simcoe county. I submit to you that Nottawasaga is still the best vehicle to address these "needs and desires of its present and future inhabitants."

The municipality applied for and was granted the right to have a referendum, as you well know and as was spoken to by the last speaker. The question as it was on the ballot was, "Are you in favour of restructuring (boundary) changes for the municipality of the township of Nottawasaga?" In excess of 85% of the people said no.

The backbone of any viable and vibrant community is its people, and the people have spoken. My question to you, honourable sirs, is, are you listening? Despite two weighted votes at the county level, approximately half of the municipalities, albeit the smaller ones, are still not in favour of restructuring. The last vote, and this is not taken from the county but just from my own notes, is referred to on one of the back pages in the addendum; 12 of those communities, small though they are, said, "No, we do not want restructuring." Interestingly enough, Tiny township, and I believe it was Mara, had a split decision, where the reeve voted one way and the deputy voted another way.

Most of the larger centres naturally voted for restructuring. Why not? Each of those municipalities have already been forcibly restructured by the provincial government—New Tecumseth, Innisfil, Bradford West Gwillimbury—or they are acquiring land and accompanying assessment: for example, Collingwood or

Midland. The village has generally voted against restructuring and the municipalities around the edge of Lake Simcoe, close to Barrie and Orillia, saw amalgamation with each other as a vehicle to a stronger force against those cities.

Interestingly enough, when I checked with county this week, with Al Pelletier, who is the clerk, there was never a time when the restructuring of south Simcoe was debated on the floor of county council.

I have report 19 here which—I don't have a copy for you, but if you are interested, Mr Chairman, you may have this copy of report 19, and all it is is a report received for information. This was the only way that county council dealt with the restructuring of south Simcoe.

The Chair: I will take that copy and make copies for members of the committee.

0930

Mrs Currie: I have also with it just the minutes so that it would verify the time of that. Some of the minutes at the back are irrelevant to this issue but do deal with the study committee and how they were voted on county council.

The Chair: Fine, thank you. I'll ask the clerk to get that.

Mrs Currie: So, in consequence, the south part of the county, when it came to the floor of the chambers, they all, except for Adjala, voted for restructuring. Naturally, what's good for the goose is good for the gander. How different that vote would have been if only the affected parties had participated.

In all fairness, Nottawasaga did agree with about 80 of the recommendations. How could we not agree? What decision is to be made about who has the dogcatcher in what community or whether we should implement a 911 or what we should do with reforestation? These were not issues. The issues, and still big issues, are the boundaries and amalgamations.

The issue of forced amalgamation and the loss of approximately 3,000 acres—and that may not be an accurate figure because we do not know at the present time exactly where the boundaries are, but I know there's approximately 2,700 acres to Collingwood and 150 to 200, in that area, to Wasaga Beach. That may change a little here or there. But that is a big issue with us.

Our other real concerns have been documented with previous presentations, but no one, no one, no matter how many times we have asked, has addressed the intangible losses of our history, our roots, our name and our pride in community spirit. No one.

Nottawasaga is 159 years old. The Currie family have been in Nottawasaga for 158. There is a lot of root still in our community. In 1984, we had 67 family farms over 100 years old that were still being passed down

from father to son—or daughter. We counted daughters in this day and age.

Bigger is not better; it's just bigger. Do you honestly think that anyone from near the Shell station on Highway 93, the other side of Angus, is going to call Carol Currie long distance to complain like they do now? Not likely. It is bigger. It's more arm's length from the people and it's bound to be expensive. We're having a great deal of difficulty getting a handle on just how expensive that will be.

No one has really addressed for us the benefits of restructuring. We've asked that question over and over. Why should we be out there looking for benefits for restructuring when we're adamantly opposed to it?

No one has told us what could be achieved by maintaining the status quo and working with our neighbours as we always have. Nottawasaga has eight municipalities on its boundaries, two other counties, three if you count the county of Simcoe, and two municipalities within its own borders. That's 13, and we get along very well with all of them except perhaps one where we have a difference of opinion occasionally.

Once again we want to register our strong opposition to restructuring and, therefore, in principle to Bill 51, An Act respecting the Restructuring of the County of Simcoe.

Are there any questions thus far, or would you like me just to continue, Mr Chairman?

The Chair: If you would complete your presentation and then we'll move to questions.

Mrs Currie: Thank you. The next section deals specifically with Bill 51 and some of the areas where we have some concerns or comments.

County council will be reduced from 37 members to 32 and the municipalities from 28 to 16. How is that going to save a lot of money? If there were one representative and 16 members, maybe you would start to see some savings as far as representation on the council itself. Perhaps in hindsight in this process the county should have been reduced to two, either north and south, or four municipalities if we're going to be restructured anyway, and then dissolve the county system as being redundant. Is it just another layer of bureaucracy? Social assistance is being taken over by the province, but we're getting downloaded on other things. My submission to you is that perhaps we don't need the county any more.

Part I, local municipalities: In the preparation of schedules, I understand that the maps are now out regarding the boundaries between Collingwood and Nottawasaga. I have not seen those. However, the metes and bounds and descriptions, as laid out by the schedules that came out in 1992, still do not reflect for Nottawasaga where exactly our boundary will be. We need to know that information if we are to abide by the

minister's dates within Bill 51.

The town of Collingwood and the municipalities of Creemore, Stayner, Sunnidale and Nottawasaga made an agreement to straighten out the boundary. We would rather leave the boundary where it is to begin with, but we do not see, any of those municipalities, any sense in having a zigzag along the western section of our municipality. Not only that, but that zigzag takes a great deal of assessment from the township of Nottawasaga. If the boundary is County Road 32, which is Sixth Street coming out of Collingwood, it makes more sense to us. At least on a county road there would be no dispute; one municipality is on one side of the road and one is on the other.

That is also true of the roads. We have not definite agreement on all of the roads, but the town of Collingwood has indicated to us that it is willing to take possession of Poplar Side Road 39/40 and the Tenth Line and maintain and construct those.

We have one difference of opinion with the town of Wasaga Beach, and I would like to point that out to you. It is on the map at the very back, page 14. With new Highway 26 coming along, there is just a little tiny triangle of land. On one of the letters before, it says it's in yellow; it isn't. It's in green. It is the triangular shape. The new highway is the one with the bend, Highway 26, and it cuts off that little piece of land from Wasaga Beach.

Our proposal to them was to please include that in Nottawasaga, and then all of that would be Nottawasaga on that side of the road, but they did not agree with that proposal. That correspondence is there. It only makes sense to me. There's no access from that road. It's a limited-access highway to be built. It doesn't make any sense to have a little 30-acre parcel, albeit if you look on the map you can see the 100 acres that belongs to the McEacherns and whatever the other investment there is. It's not a very good map, but I think you can see that it does make a measure of sense there to include that.

Subsection 2(7) states that the minister shall prepare schedules before January 1, 1994. I'm dealing with section 44, on wards, which happens to be on page 33 of the bill. The municipality is to submit its ward proposals before December 1, 1993. What if the minister comes in on December 15 with the schedules? What if he comes in on December 31 with the schedules? How can our clerks finish the work that they have to do and have our ward lines and our population and the polls, all of that business, ready to go if the minister does not get out those regulations and his schedules before January 1, 1994?

0940

Part II, county council: the first part just deals with the composition of the members, which I spoke to a few minutes ago. Section 9 is the provision for weighted votes within committees. We still object strongly to

weighted votes within the committee. The fear is that should the separated cities of Barrie and Orillia become part of the county, the allotment of votes would be skewed at the committee level. In committee, we strongly recommend one vote for each member. County council should be guided, not driven, by its committees.

Part III, public utility commissions: For Nottawasaga this is a new area. We do not have a public utility commission. The town of Stayner and the village of Creemore do. The minister has stated that the mayor or the mayor's representative and four elected members by general vote in Bill 51 should be the way it goes.

After a lot of discussion—it's probably been the hardest issue that we've dealt with in the transition council because the town of Stayner has a commission elected by general vote; the village of Creemore has a commission of the village council—we decided that we would like to come up the middle and we're petitioning the minister to do this.

First of all, we would like the words in the draft bill retained. The draft bill says the commission of the local municipalities created under subsection 10(1) shall be composed of the mayor of the local municipality and four other members who are qualified electors in the local municipality elected by general vote "in the area served by the commission." We think it's important that, because Stayner and Creemore are the two municipalities affected, the words "in the area served by the commission" be included.

Number two, the composition of the PUC, we are recommending, because it suits our community, two members from council appointed by council, two members elected at large in the area served by the commission and the mayor or the mayor's representative.

Part IV should say part VI, miscellaneous. It's not part IV; it's part VI.

Section 35, waste management sites, opens all of the certificates within the county to bring garbage anywhere. The Georgian Triangle waste management master plan has been in effect for four or five years. Those people have been working diligently and very hard to find a landfill site. Nottawasaga is again being imposed upon because that site will be within Nottawasaga, it looks like.

We have been assured over and over over the period of time that the certificate would only include those municipalities participating in that master plan. Now the minister wants to open this up so that garbage can come from anywhere within the county. The county has taken the position that it will not allow garbage in from anywhere outside the county, and we are taking the position then that we don't want to have Bradford West Gwillimbury's garbage in Nottawasaga.

We had the opportunity to sell our dump. The county

invoked its privileges under Bill 201 on January, when our deal closed on March 15, and we could have taken care of all of the garbage within Simcoe county plus some commercial, in all fairness to them, and we would not have had a \$19-million budget at the county level for garbage.

I protest very much circumventing the Environmental Protection Act. Our people are not being given the chance to be heard at a public meeting.

Section 41 deals with an easement to Georgian Bay that we requested and we thank the minister for including that within Bill 51. It gives us the right to future servicing dealing with the towns of Collingwood and Wasaga Beach. We appreciate at least making that much of a gain.

The transitional provisions: A person employed by the municipality on July 1 to December 1 becomes an employee of the new municipality. My question to the ministry was, what happens on January 2? I did not get an answer. I still have not got an answer.

If restructuring is to facilitate expenses, do we need four clerks in the new township? I'm still waiting for an answer. I phoned you, I believe, and I did not get an answer. He did not get an answer.

I want to know what happens on January 2. Are they still our employees or are we free to let them go? We have no intention of doing that with our employees, we need them, specially for this transition period that will come up in the next three to five to 10 years.

Salaries: An employee shall receive a salary or wage at no less than the person was receiving, and that deals with seniority too, on July 1, 1993. What implications does this have with the social contract that became effective on August 1?

My summary to you: Nottawasaga remains adamantly opposed to restructuring and therefore to Bill 51. Because our stand on restructuring has not been accepted by the county and has had second reading in the House, we hold out little hope that the wishes of the people of Nottawasaga will be realized. The transition council members of Clearview have gathered information and accepted the recommendations of the various committees. It was a worthwhile exercise whether we are restructured or not.

We have been amicable neighbours for our 159-year history and we draw from our strength and our weaknesses. We borrow and we share services now.

Understanding where you are today, committee members, is as important as knowing where you want to go tomorrow or in determining how you might get there. It is doubly important if you are forced into amalgamation with other municipalities.

Nottawasaga knows where it is today, and we have a vision, or we had a vision, for our township and were ready to start that strategic planning necessary to

determine how we would proceed. That vision did not include amalgamation.

The Chair: Thank you very much, Reeve Currie, for a very thorough presentation and for all the additional material that you submitted. Again, we will circulate a copy of those notes which you brought today as well.

Mrs Currie: Thank you very much.

The Chair: We'll now turn to questions, beginning with Mr Wilson.

Mr Jim Wilson: Thank you, Reeve Currie—Carol—for your presentation. You've raised a number of points that actually haven't been raised over the past three days and I want to get to those.

First I want to congratulate you personally and your council for the work that you've done. You've been absolutely consistent from the very beginning of this process with respect to opposition to restructuring, and every time that has come up, and I'll tell you that the committee hearings in the last three days have been very negative. Very few people come forward to tell us they want restructuring. In fact I can't recall anyone really coming forward and saying they want restructuring. There seems to be a caveat attached even when they say that. There are a number of amendments they want to the bill.

With respect to your amendments, please be assured that we'll draft those up and present them to the government tomorrow during clause-by-clause.

I want to say with respect to the first part of your presentation, and that is the short notice period for these hearings, I think it's a matter of public record that there was a lot of gamesmanship going on at Queen's Park. It was certainly my suspicion and Mr McLean's that the government would never have even conceded to have public hearings had we not put consistent pressure, along with the Liberal Party, on it. I think you're right. The timing of these hearings and the length of these hearings is indeed suspicious. None the less—

Interjection.

Mr Jim Wilson: And you hear mumblings over there of playing politics. I don't think the government realizes how serious an issue this is for the people of Nottawasaga and Simcoe county. To me personally, with the way they've handled the bill in the Legislature and through the process, they've not taken it, in my opinion, seriously. All we get in the last three days from the parliamentary assistant is, "Well, this is a county-driven study." We're here apparently to rubber-stamp the county's bidding. I for one was not elected to do that, and I challenge other members that you weren't elected to do that either. As I said yesterday in committee hearings, the people of this province, particularly the voters, aren't going to look at Bill 51 in the future and say, "Oh, the county of Simcoe did this," they're going to say, "Mr Wilson did this, and Mr McLean and Mr

Hayes and the NDP and the Liberals," because it's our bill, and it's now our responsibility to try and get it right.

0950

If you get the impression that this is a done deal, as Mr Stransky did in his presentation before and as many other people have, I think you're right, because the government has consistently said, "Well, we can't change boundary lines, because the county hasn't agreed to that."

None the less we're going to try tomorrow during the clause-by-clause to do exactly that. Particularly with respect to that little parcel of land south of the new Highway 26, I think it's abundantly clear, at least on this side of the table, that it makes sense that that triangular piece should be in Nottawasaga, or now Clearview, and we'll certainly introduce an amendment to that.

I do want to say to the parliamentary assistant that I had no previous chats whatsoever with this witness, yet I think the reeve makes the point very well that we need the schedules, and I think we need the schedules before we can proceed with clause-by-clause tomorrow, because the reeve has just clearly indicated—and I wrote it down—she said, "We do not know exactly where the boundaries are." That was the point I made on day one in our introductory remarks. It's impossible. We're being asked, your worship, to do this without—we're supposed to rely on that map over there, and the map, to me, is not of course the legal description of what Clearview will look like.

I want to begin with a question, and that is, I recall well the restructuring in the south end of the county. We were told by the government of that day that it wouldn't be any problem, "You can preserve local identity, your local heritage." I want to know how you're expected to do that as reeve, as a political representative of the area, when you look at the official map over there from the county of Simcoe, and Nottawasaga, Sunnidale, Creemore and Stayner, those names appear nowhere on that map; it simply says Clearview. That is the official map of the county of Simcoe for Bill 51. How do you feel when you find that your name, your former name after this bill receives third reading and royal assent, when they tell you that you won't lose your community identity yet you're not even on the map?

Mrs Currie: My own personal opinion?

Mr Jim Wilson: Yes.

Mrs Currie: Devastated. As I stated before, the Currie family has been here since 1835 and the farm that we own has been passed from father to son through all those generations. Absolutely devastated. Nottawasaga or Sunnidale will not disappear completely because on the descriptions of course they'll still be

there, but those are things—you don't pull out your deed for your land and parade that around. This is the question I've been asking because I don't have the answers. I brought this question up because no one has answered that intangible question, our loss of community.

On August 1 we had a picnic, a family fun day for Nottawasaga, not to say goodbye but to celebrate Nottawasaga, and the backbone of our community were there and we had a wonderful time together. It was put together by the little hall committees, and I think there's some concern that with the legislation and so on we'll lose our volunteers for that. It's a completely different attitude. People lose interest when things are arm's length.

With all due respect to you gentlemen, I have sat on two provincial boards, and I understand very well, with the pile of paper, when it's someone else's turf and it's not really your concern, it's a lot easier sometimes to make a decision. I've sat on the Niagara Escarpment Commission for seven and a half years and I understand perfectly well those contentious issues that are put before you so the decision-making is more arm's length, and our people feel that nobody cares. We have felt in going before the study committee—I appeared before that study committee at least six to seven times, and only once did somebody ask me a question. In fact one of the members appeared to be sleeping, and I didn't really appreciate that.

So how do you answer that kind of question? We have deep roots in Nottawasaga, whether you are with Mr Stransky, who chose to be there, whether you were born there, as my husband was, or whether you married into it like I did. How do you answer that question when you lose your community? We have very strong feelings. Sunnidale has extremely strong community feelings, as does Creemore. Creemore feels like a part of us.

Mr Jim Wilson: Thank you. One of the areas, because the Chairman has just indicated I only get one or two short questions—

Mrs Currie: I'm sorry, I get very emotional about my township.

Mr Jim Wilson: No, and I appreciate that.

As you know, I introduced a private member's bill to try and guarantee that municipalities wouldn't be restructured against their will. I know your municipality and others agreed with that.

That leads to the more general question, because in your submissions, and I have read them all over I guess the last—they date back two to three years—you asked the question, what are the benefits of restructuring to a rural municipality such as Nottawasaga which is currently able to adequately provide service to its ratepayers without incurring debt? I gather from your

presentation today you've never had an explanation or an answer to that.

Mrs Currie: No. That question was repeatedly put to the study committee, and no, no one has come out and said, "Look, this is where you're going to benefit, Nottawasaga."

Mr Jim Wilson: Just finally, quickly, section 35 with respect to a waste management site: I'm surprised that the first presenter this morning from Wasaga Beach didn't talk about that, because they have a very specific emergency certificate issued—

Mrs Currie: Yes.

Mr Jim Wilson: —so-called emergency. It's the second time it was issued, by Ruth Grier, when she was Environment minister, that allows six northern municipalities in Simcoe county to dump there, you're right, through the back door, without any environmental assessment. This bill opens it wide open so that all 28 municipalities can now dump in Wasaga Beach, for example, or could you explain to the committee what may happen in Nottawasaga with respect to this section?

Mrs Currie: Nottawasaga is at this stage 2 of the waste management plan, which means that the sites have been rated, although our people protested and there was temporary expropriation necessary on three of those sites. So that is the point at which we're at. So at some point in time, Nottawasaga is going to have a new—and whatever you call it, it's still a dump. They're going to have a new dump. Now it's been taken over by the county, but the people of this area have footed the expense for that up until the county took that over just within the last year. A great deal of expense and time has gone into that, and they were reassured over and over, as I mentioned before, that no one else would be able to dump in it except those municipalities which were participating in that study.

The really stupid thing that has made me angry over and over is that if we are to be amalgamated and Sunnidale is part of it, they could not open that Georgian Triangle study and include Sunnidale, which has a valid dump. Sunnidale is in the same position that we are. We will have a new one, so they would probably use up Sunnidale, and by that 10 years hence, when Nottawasaga or our area gets this dump, then they'll be ready to dump all of the county's garbage in it.

Mr Paul Wessenger (Simcoe Centre): Thank you for your presentation. I just have two questions. I was intrigued by your suggestion on page 6 that instead of doing a restructuring the way it's been done by the county, it might have been better to have four large area municipalities with the urban-rural mix. My question to you is, don't you think that the county, by going the way they did, by combining rural municipalities together, is preserving the rural nature of those municipi-

palities rather than sort of threatening that rural nature by going to—like your other alternative, the one you put in your brief, of having a municipality with a large rural and urban component?

Mrs Currie: At what cost, sir? By putting the rural municipalities together, first of all, Nottawasaga has a large contingent of farming area, agricultural area, which we recognize, down through the centre of it. We have the Niagara Escarpment with its constraints on approximately one third of the township. We have a changing population and a changing format of becoming four seasons, not in the respect of having a Blue Mountain to bring in great revenue, but we do have two private ski hills. But, with the boundaries the way they are, most of our commercial assessment right now is along Highway 26. Goodbye assessment. Most of our concentrated population is along Highway 26, so we're taking that away and we're not gaining by Stayner or Creemore. I think Stayner and Creemore and Sunnidale are losing by not bringing into the new municipality those areas that we had with commercial or subdivisions. Those things are gone along the edge. Yes, I would like to maintain our rural atmosphere. I would like to, but this whole thing started and is creeping northward, as I made in my first presentation, by the threat of the GTA. If the GTA keeps on creeping northwards what's going to happen to our rural—right now, we feel that with our official plan we are able to have the safeguards for our agricultural people and at the same time welcome our weekenders.

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Perhaps I'm not fully answering your question on it, but that's just a suggestion. If you're going to restructure us, you might as well put the hammer down and kill everything, just overkill.

Mr Wessenger: In other words, you say the economic aspects, because of our method of property tax and so forth, and assessment—the only alternative, you think, of an economic point of view, is to have municipalities that have both an urban and a rural mix so that they have that—

Mrs Currie: No, not necessarily, because the urban people—the town of Stayner has difficulties, as you know, with their sewage; they're up to capacity now. I'm not speaking for the town of Stayner, but that's my understanding. There's no room for growth and if we do not have an area within the new municipality where there can be adequate growth—and the Ministry of Environment and Energy I don't believe is going to allow a great deal of growth; Stayner is built on a swamp.

Mr Wessenger: My second question is a very quick one. You're advocating that the council have majority representation on the PUC. It would seem to be, if that was the case, that's taking away all responsibility of elected PUC members. My question is: If you're going

to have a majority, why don't you have them all appointed by the council, then?

Mrs Currie: I believe that what we tried to do in our many hours of discussing this was to come up the centre and to have a voice on either side. It works really well in Stayner to have two elected members. There was a great deal of consternation about the fact that there were four. Stayner has two and the mayor and feel that is sufficient. Creemore, on the other hand, felt that it worked really well for them as a small village to have the council do that. So what the transition council did was come right up the middle on that issue and felt that they would have elected members from council appointed by council and two other elected members. It doesn't matter which way you do it; if you have four of them, of course, council's outvoted and I think the feeling was that council wanted to have some inkling into—these are not big public utility commissions like the city of Toronto or anything; these are small, and they just felt that then council would have an inkling into what was going on at the commission.

Mr Wessinger: Well, I appreciate—okay.

The Chair: I have Mr Waters and Mr Conway, the parliamentary assistant and if we could—

Mr Daniel Waters (Muskoka-Georgian Bay): I was just going to make a statement that might be somewhat reassuring. I think I'm the only one here who's lived under restructuring. My riding is not only Simcoe, but it's Muskoka, and I've had 20 years of it. While they haven't had the experience that we have—

Mr Jim Wilson: My home town of Alliston.

Mr Waters: Yes, well, I'm afraid they haven't had quite the experience we've had at it, and Mr Wilson keeps talking about the loss of your communities. I can assure you that after 20 years one of the few things I can assure you about restructuring is that your communities—we still have Vankoughnet, Bardsville, Falkenburg, Baysville, Dwight. All of these communities don't exist. They're in townships, but the signs are still there and people still—and for all intents and purposes the communities are still there, and they have their individual—

Mrs Currie: Well, the first question that Mr Wilson asked me was: "What happens to Nottawasaga and Sunnidale?" and we are not there in name. Stayner will always be Stayner. Creemore will always be Creemore. Nottawasaga and Sunnidale are gone, as far as their names.

Mr Waters: But when I look at places like Vankoughnet where there isn't even a store, there's nothing—or Falkenburg—to designate that there's a community, but there are still the signs and people still live in those communities and talk about being part of that community. That doesn't go away with restructuring.

Mrs Currie: With all due respect, I'm not reassured.

Mr Conway: Reeve Currie, I really appreciate your submission. I don't know a great deal about your area, though I can say this, that on warm summer days I've often taken medicinal comfort from very fine liquid products that are made in the village of Creemore. I find that medicine very, very supportive and helpful, taken in moderation of course.

Mrs Currie: Could I respond to that? Perhaps Reeve MacDonald, who's speaking next, or at a later date this morning—perhaps he could bribe you.

Mr Conway: Oh, no, that's illegal—but just two things, two questions because of the time pressures. Again, I want to join others. This is an excellent, very helpful brief. I'm not ordinarily a member of this committee; I'm just substituting this week. But I've heard quite a bit of the evidence advanced in support of and against this current Bill 51.

I represent a large rural constituency in eastern Ontario called Renfrew county so I'm somewhat, I think, from my own experience, inclined to understand some of the problems you've advanced.

The two questions are: Firstly, tell me that you/they are not going to build a big, new administration complex and have four clerks.

Mrs Currie: If you vote and have your members vote the right way, there would be no necessity for it, sir.

Mr Conway: But if it were to pass?

Mrs Currie: All right, let me—

Mr Conway: Because I take it that in your communities you've probably got small, little administrative units.

Mrs Currie: Yes, we have and they are not—we haven't got to the point where we've actually dealt with that, but let me clue you in.

Nottawasaga has an old school. The water comes out of the tap, it's black. There's no land around it, just the parking lot in front of it. It's not well insulated. It served us well for the time being. Sunnidale has an old school. Creemore has a storefront. The town of Stayner has the firehall on one part and it has a considerable amount of room in it, but their council chambers are upstairs and not wheelchair accessible.

So, if we choose to deal with Stayner as our municipal offices, a considerable amount of money will have to be spent, I think, to make it wheelchair accessible or even to rearrange the council chambers that are downstairs or whatever.

I don't know what we're going to do. We do not want to up the taxes of people but, by the same token, I'm not sure we can work efficiently out of the four offices in these areas and pay for the heat and the upkeep and everything else that's involved with them. I'm not sure that's cost-effective in the long term.

What we are looking at—and we have not discussed this with our transition council, but the heads of council did talk about it. We're looking at having to rent an area next year to house 23 councillors.

Mr Conway: All right, the second question, because of the time—again, I think you make a very powerful argument, one in which I'm inclined to agree, particularly on the basis of the sort of disaffiliation that the citizen feels as the organizational unit gets larger. That's certainly been the experience in my area, with school boards more than anything else.

The larger the unit—my county, Renfrew, runs 140 miles up the Ottawa River and an average depth of about 50 miles, and divisional school boards have brought to us a very real benefit. We've tended to talk a lot about the benefits, but one of the very real deficits or detriments is the disconnection people now feel from the whole operation, because they feel it's just all run by a centralized bureaucracy, miles and miles and light-years away from them and their experience. So I think that part of your argument is extremely telling for me.

On the other hand, I look at the Simcoe county study committee and they make some—I've been in elected office 18 years, most of it in opposition, but I've been in government for a number of years as well. I know that in the nature of things, it's easier to be opposed to something than it is to be for something, because being for something is sometimes complicated and difficult. I'm not suggesting for a moment that you're sort of naturally oppositionist. I can understand your thoughtful argument against this, but when I look at this green report, clearly a number of issues have been identified.

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It is suggested into this part of Simcoe county that there are ongoing relationships between the towns of Stayner and Nottawasaga, that you've got growth pressures around that urban community, particularly, where I suspect the pressures may continue. There are the high-cost items of water and sewer services, to name but one.

It is obviously recommended in this proposition that the best way to deal with these kinds of pressures that I think have been identified by a lot of people is to come up with some kind of restructuring. Would I be right in saying that you agree there are some issues that are going to continue to give rise to these pressures, but that there might be another way, for example, to deal with that? Looking, let's say, at Nottawasaga and Stayner—I know Stayner reasonably well, but I don't know where the town line is and if I got up in a plane at night and looked at the lights, I bet you I would be able to look down and find a fair bit of Nottawasaga development right around the town of Stayner. Would I be right?

Mrs Currie: Yes.

Mr Conway: Is that likely going to continue?

Mrs Currie: No.

Mr Conway: Even if it doesn't continue—

Mrs Currie: If I can just speak to that, there will be some probably, but it's not likely to continue until, or unless, the town of Stayner's sewage problems are adequate.

Part of Nottawasaga looks like it's in Stayner, especially on the north side on Highway 26, and there was some development done many, many years ago, probably 30 years ago, in there now, but no further development has occurred because of the water and sewage. The land is not suitable. That is true outside of Collingwood and it's recognized in our official plan, so I don't think there will be a lot of pressure. Right now, they can go a few more houses, I think something like 150 in the town of Stayner—I'm not speaking for them; they could refute that as being incorrect—but in that neighbourhood.

I have urged them from the beginning of this to take a look at the boundaries as they are, and look at their servicing areas and extend those boundaries which would be natural boundaries to where the servicing could happen or they might want to happen within a 20-year period, but we don't need to be restructured to do that.

The other thing is, to answer your question, when we got into this, the four of us got together and we made up our minds from the outset that we were going to work together in a positive and constructive manner. The town of Stayner wants to be restructured and the other three do not, and yet we worked together extremely well. So we're doing that positively and constructively. The pressures are not right now in Stayner; the pressures are in Nottawasaga.

Mr Conway: If I can just make one final point—

The Chair: We're really running along and the parliamentary assistant had a couple of points. I just don't want to fall behind.

Mr Hayes: Thank you, Reeve Currie, for your very good presentation. I just wanted to kind of clear the air on a couple of statements that were made about why this committee is here. I want to just very briefly tell you that the second reading of this bill didn't get passed until the final day before we recessed, which didn't give it much time. I don't disagree with you; you didn't have a whole lot of time to prepare for this committee.

But at the same time, when you talk about the AMO convention, the timing there, I'd love nothing more than going to the AMO convention, especially being the parliamentary assistant in Municipal Affairs. I would have preferred to be there but, at the same time, I just want to tell you—people want to make accusations—that the four members from the area, Mr Wessinger and Mr Waters and Mr Wilson and Mr McLean, certainly

worked very hard and they came to me and tried to push the House leaders so we would be able to do this, come out and meet with the people. And to my knowledge, I'm not aware of any standing committee of the Legislature really doing this, unless members who have been here for a long time can correct me on that. But we wanted to come here and listen to the people.

Mr Allan K. McLean (Simcoe East): Years ago, in 1973.

Mr Hayes: As far as rubber-stamping, that is not the case at all. And as far as how this thing is driven, it's not driven by the bureaucrats and it's not driven by the province of Ontario. It is the county's restructuring program. I just wanted to make that clear. I'm not being critical with you, but I think in all fairness to everybody on this committee and all the people who have worked on this restructuring, we came here to listen to you and because we wanted to hear what the people had to say.

Mrs Currie: Thank you for that clarification. I did not use the word "rubber-stamping."

Mr Hayes: No, you didn't. I know you didn't.

The Chair: Reeve Currie, I want to thank you again for coming before the committee. It has been most helpful.

Mrs Currie: Thank you to the committee also for this overtime in talking to me. I appreciate it.

VILLAGE OF CREEMORE

The Chair: If I could then call on the reeve for the village of Creemore, Mr Ralph MacDonald, if he would be good enough to come forward. Reeve MacDonald, welcome to the committee. We appreciate your making the time to be here today.

Mr Ralph MacDonald: Thank you, Mr Chairman. I also would like to thank the members of the committee for allowing the village of Creemore and other municipalities of the county of Simcoe the opportunity to express our feelings and make our suggestions for changes to Bill 51.

Since the time when restructuring of the county was first made public, the residents of the village of Creemore have expressed opposition to the idea and, as such, the council for the village has fought long and hard to bring an end to the restructuring process. We have made our feelings known from the beginning that we believe this restructuring is not for the good of the residents of the affected municipalities and restructuring of the county will end with higher taxes, less service and loss of accountability on the part of the politicians. The residents of the village have felt that the entire process has been forced upon us and directed by a few municipalities of the county which by virtue of population hold the vote.

If you were to take a consensus of how many municipalities within the county are for or against the restructuring, you may be surprised to find that the majority of

the municipalities are against the process. In our own situation, the village of Creemore will be amalgamated with the town of Stayner and the townships of Sunnidale and Nottawasaga to form the new township of Clearview. Of the four municipalities that will join together, three are and have always been against the entire restructuring process.

The position of the village of Creemore in the beginning to the position now has changed somewhat. Although we are still against the restructuring process, we have come to terms with the fact that the process will be going ahead as scheduled and, as such, we are working diligently towards achieving the best possible results for the residents of the new township of Clearview. We feel we have met the challenge of restructuring by working in harmony with the other three municipalities, meeting deadlines as dictated by the province and by keeping the residents informed of the process.

We also feel that the province has not met its challenge of restructuring as well. The legislation has been delayed almost one year, which has left us and the other municipalities in the dark and without direction. Many times we could not be assured as to the passage of the legislation, which made us feel uncertain about spending any further funds or continuing with the process.

When it was made clear to us that the legislation was going ahead, we were informed by the province that after the first or second reading of the bill, the funds promised by the province to assist the municipalities in the expense of the process would be allocated. As of this date, we have not received any funding, nor any information as to when the funding may be made available to us. We have, to this date, all incurred large expenditures, with larger expenditures yet to come, yet have not received the promised assistance.

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I would like to ask this committee to investigate this matter and publicize the date when the municipalities could expect their funding. The village of Creemore believes that it has, like most other municipalities of the county, upheld its end of the bargain. We would now like the province to uphold its end.

As to other problems regarding the bill itself, Mr Ted Hannan, administrator-designate of the township of Clearview, will be making a speech. Maybe he's already been up.

In conclusion, I would like to state that the village of Creemore is in full support of the position taken by our neighbours the townships of Nottawasaga and Sunnidale in opposing the entire restructuring process. We feel that any problems between us and our neighbours, or any opportunity to reduce inefficiency, can be and should be worked out on the municipal level and not forced upon us by the province.

A couple of other little matters, Mr Chairman, on the

bill: In section 29, I don't just get it quite clear. If a municipality has a large debt, I take it that debt should stay with the municipality, like a debenture, we'll say, of an arena or whatever it might be. But in section 48 it spells out that it will become the liabilities and the assets of the new municipality. I think that if it's to stay with the municipality and be assessed on its levy, there should be a bylaw on section 29 that covers that a lot clearer.

With that, I wish to thank this committee for the opportunity to express the feelings and state the position of the village of Creemore regarding Bill 51.

The Chair: Thank you very much, Reeve MacDonald. We have a few questions, beginning with Mr Waters and Mr Mclean.

Mr Waters: One of the questions—and I was asked outside the meeting yesterday a couple of times, so I would ask either the parliamentary assistant or the staff if they could give us some sort of an indication on the funding. The funding was supposed to have been flowing after first reading, then after second reading, and here we are into hearings. I was asked that yesterday, so if they're going to comment at the end or now, I would like that.

The Chair: Parliamentary assistant?

Mr Hayes: All I can tell you right now, Mr Waters, is that the staff is preparing the order for the minister to proceed with the funding. It's being dealt with right now.

Mr Waters: Okay, thank you.

The other thing I'm fascinated by, because I probably had more concerns than some other politicians about restructuring, as I said, having lived with it for 20 years in Muskoka, is how this came about and got this far. I look at page 10 from the previous presenters and it has a vote of April 27, 1993, and I look at local representatives from the north voting in favour. That's what I'm seeing here, north Simcoe voting in favour. I had been told time and time again that south Simcoe was carrying the day and that Barrie and Orillia and that were carrying the day. I don't even see Barrie and Orillia on here. And I see a number of yeses marked beside communities and villages—well, there's only one in a village—and townships from the north supporting it.

The Chair: Excuse me, Mr Waters. Just for the committee, you're dealing with addendum A on page 10 of the previous submission?

Mr Waters: Yes, the township of Nottawasaga.

The Chair: Reeve MacDonald, you have a copy of that now in front of you?

Mr MacDonald: Yes, I do.

Mr Waters: When I'm looking at that, I know that some of the townships and that have put it to the people in the last election and there was a unanimous no from

the people, but that isn't what their representation at county government is showing.

Mr MacDonald: If I might speak to that, the south end of our county was restructured a few years ago. I'm very good friends with most of the politicians from the south end, and what I got from them was, "If we have to be restructured, why shouldn't the rest of you?" I don't feel that it was a fair vote at county council that the south end of the county that was already in place was allowed to vote on it. Maybe that's an unfair statement, but that was the feeling they got, that if they were restructured, why shouldn't the rest of you be restructured? So that's the way the vote came out.

Mr Waters: But Stayner and Port McNicoll and Penetang and Midland, and the list goes on—Oro, you know—all of these people aren't in the south.

Mr MacDonald: Well, again—

Mr Waters: Tiny.

Mr MacDonald: Again, you could pick out some of the ones. Maybe you don't know, but I'm sure that likely if Creemore had a large debt, it would have loved to get some help to pay it, and unfortunately, maybe Stayner has a new arena to pay for, a sewage system to pay for. Any of us could have that, but when you're in that position in these times, everybody's looking out for a handout.

Mr McLean: I just want to follow up on that. The question is, if the majority of the municipalities in north Simcoe that were not restructured had a vote, just themselves, would the vote have carried or not?

Mr MacDonald: I'm pretty sure that it would. At the time of the vote we had it all figured up, and the ones that were against it all had a bit of a gathering and we had enough to carry it.

Mr McLean: I know that the reeve of Medonte voted for it, but he was instructed by his council to do so. He ran a campaign opposing it and he was very much opposed to it but was instructed by his council to vote for it.

I guess the other question I have with regard to this, Reeve MacDonald, is that at county council, and I've heard it from different Reeves, "If we didn't do it, the province is going to do it for us."

Mr MacDonald: That was the first information that we got.

Mr McLean: And that seemed to be very strongly?

Mr MacDonald: That's right.

Mr McLean: The warden of two years ago indicated in her comments yesterday that that was not the case, that they never said that, that it directly came from the county as a whole: They were the ones that were initiating it, they were the ones that promoted it. And Warden Keefe or all the wardens have never said that if the county didn't do it, the province would.

Mr MacDonald: Well, that was the first information that was brought to us. The information from the province was that it would give us the opportunity to try and put things in place, and if we couldn't do it, they would do it.

Mr McLean: That came from the province?

Mr MacDonald: That came from the province.

Mr McLean: Do you know who?

Mr MacDonald: I can't—we had a speaker from the province up to one of our meetings at one time. In fact, that's three years ago, four years ago.

Mr McLean: They may be all gone now.

Mr MacDonald: That could be possible.

Mr Ron Eddy (Brant-Haldimand): Thank you, Mr MacDonald, for your presentation. Is the village of Creemore growing at all? Do you see any expansion or any need to grow? Do you have room to grow if you want to grow? What's your situation in that regard?

Mr MacDonald: Yes, we would love some expansion. You have to have growth to keep—

Mr Eddy: Do you have room for it? Do you have land now?

Mr MacDonald: Yes, we do.

Mr Eddy: Do you have services? Do you have water?

Mr MacDonald: No, we don't have any sewers. We have municipal water.

Mr Eddy: Mr MacDonald, one of the reasons that we're told for restructuring, of course, is to enhance the fiscal capacity of a municipality. In other words, the new municipality would be larger, a larger tax base, and that is considered by many to be an advantage. That's one of the advantages. The other advantage, of course, is that there would never be any need for annexation. There wouldn't be boundaries to the urban centre except those established by the local council. That, we're told, is an advantage, and indeed it is in some areas. Do you see any advantages at all to the restructuring proposal to your area? And that means the township and the village.

Mr MacDonald: No, we have room to grow. We have a large amount of land that's available for growth there. The only thing we have been after for several years is funding for sewers, but I don't think you're going to see the province come out in the next six months or a year and say, "Now you're restructuring, we're going to give you \$5 million or \$6 million to put sewers in." I think we'll likely be further behind once we're restructured than we are now at getting it.

1030

Mr Eddy: I'm not sure whether there's any money under Jobs Ontario for sewer projects. I know that there are some water system expansions under that.

One of the other problems in a large county like Simcoe is the number of members on county council. In

order to reduce the members, what do you do? It's an easy thing, apparently, if you reduce the number of municipalities. It's been proposed to me in another area that a village such as yourselves would rather go together with two or three adjoining municipalities to have one county council representative, if indeed that's required to reduce the members. Do you have any thoughts on any other system of county government representation?

Mr MacDonald: I don't think we're going to reduce our members by very many, because some of the municipalities now are going to pick up deputy mayors, whom they didn't have before. I think it's only half a dozen members or something—I can't tell you the exact count now—whom we are going to reduce county council by. It's very slim anyway.

Mr Jim Wilson: Thank you, Reeve Macdonald, for a very good presentation and taking the time to speak on behalf of Creemore.

I do want to just begin by saying with respect to some comments Mr Conway made, that it is easy to be negative and to object to these things, I disagree, Mr Conway, with respect, because I'll tell you, I'm not making any friends in the town of Collingwood. Joe Sheffer's here today and I'm sure he's not terribly pleased, because the town stands to gain under restructuring. I don't think I'm making any particular friends with the council of Stayner or the mayor, Bill Maynard. They're in favour of restructuring. Just for the record, this isn't an easy process. As all the politicians and people in the room know, when you take a stand on something you get kudos but you get a lot of kicks too.

Mr Conway: If I just might put Mr Wilson's mind to rest, I didn't in any way want to suggest that you were being some kind of nattering nabob of negativism. I in fact was making the comment more about myself. I've spent 18 years in politics, and it may be just my own peculiar psychology, but I have often found it just an easier thing to oppose something than to try to work out some sort of constructive alternative. I want to make it very clear, Mr Wilson, that I wasn't accusing you of being—

Mr Jim Wilson: Okay, thank you.

The Chair: Mr Wilson, if you would continue.

Mr Jim Wilson: I deserve the cross-chatter, having started it, Mr Chairman.

We talked about economic viability of new municipalities and streamlining of government, which I don't believe is occurring but it's part of the county's, and now the government's, selling job on restructuring. Could not those objectives have been met without restructuring and without wiping Nottawasaga, Sunnidale, Creemore and Stayner off the map?

Mr MacDonald: I certainly feel that they could have. But looking at our county, I don't think it's the

small municipalities, on the whole, that have the problems; I think it's our large municipalities.

Mr Jim Wilson: That's right.

Mr MacDonald: Creemore has never had any problems in my 23 years as a politician in paying its bills. There were lots of times we could have looked after ourselves if we hadn't gotten the grants. Sometimes grants cost us money because we had to follow the province's specs and what have you to do a lot of things. We could have done it just as well and quite a bit cheaper than getting into engineers and planners.

Mr Jim Wilson: You make an excellent point, Reeve MacDonald. It's been difficult, I guess, to convince people, particularly politicians who inhabit the Legislature from Metropolitan Toronto, that smaller units are indeed very efficient. In fact, you probably run your municipality as if it were your own money and treat with tremendous respect the taxpayers' money.

I do want to talk, because you raised the question, about Stayner. Stayner is not presenting during these hearings, although somebody from the government did call them and ask them to present. But that aside, there were, in my opinion—I stand to be corrected—a number of people in Stayner over the past two years who have either written to me or spoken to me in favour of restructuring, because they were under the understanding that it would be “share the pain,” that the debt they have for their arena and the sewer project would be spread throughout the new municipality. Subsequently, the mayor, Bill Maynard, denies that council in Stayner has that understanding, but I've said to him consistently that I think a number of the citizens feel that their debts will now be shared.

But my experience with restructuring in south Simcoe is that we have four different property tax rates. Beeton of course has a \$6.8-million well that the residents of Beeton are paying for. It's not “share the pain.” The new water tower in Alliston is an urban service area. The people of Alliston will pay for that. I want a clarification from the parliamentary assistant. I would think that Stayner will continue to be an urban service area and that the people of Stayner will continue to pay the debts that have been incurred to date in that municipality. Is my reading of the act correct?

Mr Hayes: If I may, I was going to get Mr Griggs to clarify and explain that. We've been waiting for you to ask that.

Mr Jeremy Griggs: In fact, Bill 51 is permissive in that respect. It allows for the new municipality to do that. If either the interim council or the newly elected council for the new municipality chose to treat any of the services as urban service areas, including the debt of a former municipality, they could do so.

Mr Jim Wilson: Not to put words in the witness's mouth, I would assume that the best deal for Notta-

wasaga and Creemore ratepayers would be to ensure that Stayner continues to pay for debts incurred for Stayner services. Under that scenario then, are we going to see four different tax rates in this new municipality, or the possibility thereof?

Mr Griggs: The bill does provide for that. I explained the reasons for this, I believe, yesterday. The point is that when you're combining four municipalities, as is the case here, the municipalities are assessed at different years. There's a need to bring those up to a base year to provide for the distribution of taxation on the basis of the assessment of those areas. There will be different tax rates until the municipality decides to go through a reassessment or the county chooses to go through a reassessment.

Mr McLean: Can I have a clarification on this? What you're telling us then is that under the new council of Clearview, all the municipalities will pay for service that goes into Stayner or service that goes into Creemore?

Mr Griggs: No. As I indicated earlier, it's at the council's discretion to establish service areas if it chooses to do so.

Mr McLean: They could allow that to happen then.

Mr Griggs: They could.

Mr Jim Wilson: Perhaps we can just ask the witness whether that's been discussed. I'm on the public record of trying to explain this to the people of Stayner. Certainly, Ralph, in your presentation you mentioned perhaps a belief that it is “share the pain,” but it's not necessarily so if council decides to designate Stayner and the four municipalities as separate urban service areas. Has that been discussed in the transition council?

Mr MacDonald: Very faintly, sitting around the meeting, when we're all together, four municipalities. I took from the council of Stayner that it felt that once we were restructured, everything's going to go in the one pot and its debts will be paid evenly among the four municipalities. That's why I was trying to go through this thing. I don't think that's fair. We're all certainly going to have to pay for the operations of them, but I don't think it's fair for other municipalities that didn't build them to have to pay for them. They're debentured and they're assessed against that municipality now; I think they should stay that way.

The Chair: Mr Griggs, do you want to comment?

Mr Griggs: Again, as I said, section 29 of the bill provides that the council of a local municipality may, by bylaw, identify an urban service area. That includes the transitional council made up of the existing councils of the municipalities. Following January 1, 1994, before the new council is elected, the transitional council, as you discuss, could identify these urban service areas. If Creemore, Nottawasaga and Sunnidale feel that it would be unfair for Stayner's debt to be spread across the

whole new municipality, those three municipalities, which would carry the vote on the interim council, could establish that area as an urban service area.

1040

Mr MacDonald: Sir, that's not true, because the way it's going to be set up in ward systems, other people from the municipality could come down and run in my ward, and they might be in favour of paying Stayner's debt. You don't have to live in the ward to run in it.

Mr Jim Wilson: That's a very good point.

Mr Griggs: The ward systems don't come into effect until the municipal election in the fall of 1994. I was speaking about the interim council between the implementation of the restructuring and that election.

Mr Conway: But Reeve MacDonald's point I think is a good one. What protection do I have if I live in Creemore or if I'm up in Nottawasaga and say I want the urban service area that was there pre-restructuring to be maintained? It will presumably be maintained, or can be and probably will be in the transitional period, but that's only for one year. How good a guarantee have I got after 1994 that I, living in rural Nottawasaga, won't get stuck for somebody else's debt?

Mr Griggs: This is the way municipalities function. You elect a council to make decisions for that municipality, and if you don't like the decisions, you certainly have a voice. You can oppose them and make your views known and also oppose them in the next election. This is the way municipalities function.

The Chair: Mr Eddy, did you have a quick query on that?

Mr Eddy: Yes. It's a further clarification, because you have to look at the definition of an "urban service" as stated in section 29. What happens when you form an urban service area is that it's probably for hydro-electric purposes, but usually for water and sewer. Now, an arena is an entirely different matter, because that serves the entire municipality. What is usual is that services for a given area are paid for by the users in that given area, the urban service area; everyone pays for services, like an arena, that are provided throughout the municipality. There is a difference depending on the service. I think that needs to be clear. I really think we need something more clearly stated than, it would seem, leaving it to the discretion of a new council, in view of the fact that you'll have an imbalance perhaps with the three municipalities.

The Chair: Mr Wilson, do you want to comment on that? I just want to allow Reeve MacDonald to.

Mr Jim Wilson: I think Mr Eddy's point is particularly well taken in light of the fact—I didn't know till Reeve MacDonald just said it—that you don't have to be a member of the ward you're going to run in. That I find absolutely unbelievable.

Mr MacDonald: Certainly I can assure you that nothing's going to change in the first eight months of 1994 to election, but then you don't know in an election what's in the back of a politician's head when he's running for a position, what he's going to do. I think it would be very easy for the province at this time to make it very clear. It would save a lot of arguments and be a lot clearer.

Mr McLean: This whole process is so flawed, isn't it?

The Chair: Reeve MacDonald, I want to thank you for coming before the committee. You have obviously raised a number of issues that have caught the interest of the committee. Thank you again for coming.

TOWNSHIP OF SUNNIDALE

The Chair: I call the next witness, the reeve of the township of Sunnidale, Mr Burnfield Wines. Welcome you to the committee.

Mr Jim Wilson: On a point of order: If you would like, your worship, you could have Mr Hannan join you at the table.

The Chair: Please, anyone whom you'd like.

Mr Burnfield Wines: Mr Chairman, I'm not sure but that I haven't had the privilege of rowing a canoe against you.

The Chair: Oh, down in Bradford.

Mr Wines: I think I beat you too.

The Chair: I think you did. I think you beat me pretty badly, if I recall.

Mr Wines: Mr Chairman, committee members, municipal colleagues, ladies and gentlemen, I guess as I sit here and listen to the different Reeves ahead of me and the questions coming back, it makes me feel like a mosquito in a nudist camp. If I had the opportunity to speak without this paper, I would hardly know where to start.

Comments earlier from Dan Waters, your MPP, that names will not disappear—they will disappear down the road with generations changing. We saw that with even the changing of the Union Jack to our Canadian flag. The youngsters of today know only the maple leaf for our Canadian flag. When I grew up I knew nothing but the Union Jack.

The Chair: Reeve, can I ask you to introduce the chairman with you at the table?

Mr Wines: I have here on my left Mr Ted Hannan, my CEO, whom I have had with me in all my presentations to county restructuring.

Some of you are well aware that I opposed restructuring very vigorously for the township of Sunnidale. In fact, as I sat in on two long days, and I refer to them as two long days on voting on restructuring, I saw one particular person hold up the green book with a lot of questions in there, and yes, blame can be put on the

county that this is the way the county asked for restructuring.

However, in one of my statements about 11 o'clock at night, I said this is wholesale slaughter to the county because the county is dear to me. My ties go back right through to Sir John A. Macdonald, so it's not hard to know what political party I sure lean to, because our relations go right back to Sir John A. However, I won't take up any more time blathering as such. I have a brief here before me, as all of you have, and I'm going to carry on with it.

Gentlemen and ladies, in the past three years, on behalf of the township of Sunnidale, I made several presentations on the restructuring of Simcoe county which have fallen on deaf ears. I might say I could be in places very raw in these comments, because that's the way I presented them and that's the way I see it. We have made no secret of the fact that Sunnidale has been against restructuring from the beginning. That is not to say that we are against intermunicipal cooperation through shared services.

I also heard those comments here, and we in Sunnidale are quite willing to share and cooperate. As one comment was made here on paying into an arena, we have four arenas surrounding our township, so it becomes quite an issue because we have to be very careful that we don't shun one or the other.

If you look at Sunnidale's record, you will see that we have supported many of the recommendations contained in the Simcoe county report. It has always been my position that county planning should have taken place before restructuring. You may recall that when the draft report came to county council, county planning was turned down. Excuse me, I'm a little rough. I just caught some of the combine dust from yesterday and it's still bothering me.

When the vote was taken at county council, it was the township of Sunnidale that cast the deciding yes vote for county planning, notwithstanding the fact that the Simcoe county study made some 126 recommendations and many of the recommendations are being implemented without Bill 51.

The strong objection of the township of Sunnidale is the arbitrary movement of municipal boundaries and the amalgamation of municipalities. The philosophy of the province is that these smaller municipalities are not an economical, viable unit. I take a very strong exception to this philosophy. What the province is trying to do through Bill 51 is legislate good management, and this just won't happen.

1050

If I could take a moment to comment on an earlier statement here, "Why had so many municipalities in the north"—I think it was—"voted for restructuring?" I can tell you one thing, that if you took the towns out of this

restructuring process and voting, I think you would find that restructuring wouldn't go through, because the towns voted, and especially the bigger towns, because they wanted more territory to expand their boundaries. In the same statement, I can also say that it allows the larger municipalities, the towns especially, to expand, and they will expand as the pressure gets to them. But as I see it with county restructuring, it takes that process away from the rural municipalities, because it is saying to them, "You cannot expand at your boundaries," and that's something that you all should take heed of.

Why should a town be allowed to expand at a rural municipality's expense when a rural municipality cannot, the other way around? This is what restructuring has been all about, some of it, because the rural municipalities have been building on the town borders. I will comment later on one of our own subdivisions that we have under way and are going to have under way.

Sunnidale has always been able to pay its bills, has substantial reserves and is able to meet the service demands of its inhabitants. I might say that in many instances, capital services have been provided with very little or no financial assistance from the province. If you consider the New Lowell water system, which includes fire protection, it was constructed and paid for without provincial participation. It is a state-of-the-art water system which will be extended to include the whole older part of the village, and before restructuring reared its ugly head, plans were in place for the extension regardless of whether or not provincial financial assistance was available.

Again talking about financial viability, let's look at the voluntarism in the smaller municipalities. The inhabitants do not expect Big Brother, the local government, to supply everything at no cost. In order to control expenses, there are a tremendous number of unpaid volunteers who make things happen. People on parks boards, community centre boards, recreation committees, library boards, service clubs and many other private individuals give freely of their time and resources towards the various programs in the municipality. In a small community, this is part of the way of life, part of being a member of that community. With the restructured, larger municipalities, much of this will be lost and inhabitants will expect Big Brother to provide these services, and at what costs?

In considering Bill 51 itself, there are many areas which we see as troublesome in the future. Section 9 states, "The council of the county of Simcoe may by bylaw provide that a member who has one or more additional votes in council by virtue of this part shall have the same number of additional votes as a member of any committee." It is this type of weighted vote that got us into trouble in the Simcoe county study. If the county passes a bylaw providing for a weighted vote at the committee level, the large urban municipalities will

control the committees. Section 9 of Bill 51 should be removed in its entirety. I think it should be a single vote, the way we pick our county warden: one member, one vote.

You as committee members came to Collingwood today for public input on a very important piece of legislation. Let's take a look at section 35 of Bill 51, whereby certificates of approval or provisional certificates of approval have been issued under part 5 of the Environmental Protection Act before January 1, 1994, for a waste disposal site, but on December 31, 1993, it is owned by the county of Simcoe. The certificate is amended to enlarge the service area to include all of Simcoe county. I ask you, where is the public participation for these major expansions of areas serviced by landfill sites?

I might say, in my experience as a councillor, deputy reeve and reeve over the past soon heading for 18 years, I guess the big disappointment was in Bill 201 where it allowed the county to take over landfill sites without aye, yes or no. We in Sunnidale—I'll give you an example of how we were looking to the future—had a licensed landfill site for household waste for 60 acres, almost the biggest site in the county of Simcoe. We had purchased another 98 acres to the north, we were negotiating for 100 acres to the east and also 50 acres to the south, surrounding that landfill site, where there would be no housing developments whatsoever, a state-of-the-art landfill site, which we were very proud of and which Bill 201 completely wiped out without us having any say at all. It amazes me why and how, without even negotiating with the township of Sunnidale or the changing of a dollar, Bill 201 takes all your authority away from you. I tell you, as I've stated before at the county, we are heading for dictatorship, whether any one of us likes it or not, unless we make drastic changes.

We can't help but feel that this is just another case of "steam-rolling" through someone's personal agenda. I would even question this public hearing. To call a public hearing on Bill 51 and notify municipalities twelve days, four of which are weekends and one of which the province is closed, before hearings commence casts doubt on just how interested the province is in public input.

I guess I might say this. In my understanding, and I stand to be corrected, that this passing of the second reading happened almost before you closed off Parliament for the summer session. In my understanding, it took about 10 minutes, and to me this is: "I'm in a hurry to get back to my riding. What's Simcoe county mean to me?"—very discouraging for the likes of myself and colleagues in our new municipality.

As a matter of fact, the guideline for the preparation of a brief to standing and select committees of the Legislative Assembly of Ontario was received by fax at

11:57 am, Friday, August 20, 1993, just three days before the commencement of hearings. It is also strange that the hearings would be called for the same three days as the annual Association of Municipalities of Ontario conference. We are informed that the hearing dates were set, realizing full well that the conflict with the AMO conference existed. Does this mean that the province does not want the local municipal representatives at these hearings?

At the last municipal election, the township of Sunnidale asked the voters, "Are you in favour of restructuring (boundary) changes for the municipality of the township of Sunnidale?" A resounding 95% voted against restructuring. The same question was asked in several municipalities with about the same results. Bill 51 is a result of the Simcoe county study report being pushed through Simcoe county to satisfy the political ambitions of certain members through expanded municipal boundaries and municipal amalgamations. It has nothing to do with the wishes of the residents of Simcoe county. When the Simcoe county report was presented to county council, the galleries were full of people against restructuring. County council dealt with the matter at best as if they were not there or, at worst, as if the general public was a nuisance and of little or no consequence.

1100

I might say, a comment earlier on here was—and when I came on county council, my first year of course, this was what hit the floor right off the bat, a vote for restructuring. I might add, the vote was for a study of the county, not restructuring and boundary changes, and I want that made quite clear. That was a mandate for a study of the county, which should have happened, not restructuring. But I tell you, once the ball got rolling there was no way we could stop it.

The municipalities in the south end of Simcoe county had restructuring forced upon them by the province. There were loud and long protests from the general public and the local municipalities when the forced restructuring took place. Most residents of the southern Simcoe county municipalities are still very much against restructuring, yet the attitude of the south Simcoe county politicians has been that "It happened to us; therefore, it should happen to you"—this was referred to earlier on by Reeve MacDonald from Creemore, which was quite true—referring to the remainder of Simcoe county.

It is my understanding that at these hearings you are hearing delegations against restructuring from municipalities whose county representative voted in favour. It is interesting to look at the last municipal election results and analyse the supporters of restructuring who were defeated and the supporters of restructuring who had always enjoyed a large margin of votes who were just barely returned to office.

Bill 51 is legislation that is not wanted by the people of Simcoe county. Any financial advantages gained through restructuring will be more than offset by increased expenses. We have seen this happen time and time again with regional government. Our local municipal government is the closest to the people we represent and through Bill 51 we are being removed one step further from the man in the barrel, the person who finally pays the bill. My comment is that bigger isn't always better.

I do have a few personal remarks, if I could have the opportunity to read them out, which are not on your statement, I guess my personal remarks and requests.

McIntyre Creek Estates is a subdivision that is in the initial stages of getting final. To us it's one of the state-of-the-art subdivisions. It is on the boundary of Wasaga Beach. It was built, tied in to cooperate and we did give the approval to cooperate with Wasaga Sands. McIntyre Creek Estates is a subdivision contained within its own, away from Wasaga Beach. It has its own water facilities. Its facilities were being produced and set up so that if Wasaga Beach ran out of water, we could feed water to Wasaga Beach or vice versa. To me this spells cooperation. A self-contained subdivision which is part of Sunnidale's northern boundary and being fully serviced by Sunnidale and more fully serviced by the new municipality of Clearview, it should remain with the new municipality and not go to Wasaga Beach.

The townships of Tosorontio and Adjala, and I brought this up more times than one, and the ministry sitting over here at the table to my right will back me up on my statements: Being joined together as one, which we call the string of spaghetti, makes no sense to me whatsoever. I guess I look as to ways these changes should improve and I think that the ministry does have the power to make these final adjustments too—being joined together as one should not happen. Tosorontio should be joined up with Essa to take in Base Borden, which is a natural phenomenon. They both receive financial assistance from the base; therefore, the financial assistance to both municipalities should include that base because Essa especially is going to have to provide a new sewer system for that base.

Adjala should join with New Tecumseth—these are my thoughts for the future—to make proper adjustments if we have to go with restructuring.

Barrie should be allowed to take in the northern half of Innisfil, Vespra out as far as Midhurst, a portion of Oro on its easterly boundary and a portion of Essa on its westerly boundary, and this only makes proper sense if we don't want to get into it down the road in the very near future. I think that that should be allowed for proper planning.

The city of Orillia should be allowed to expand as well. These changes should be allowed to happen before

the third reading of the bill.

If restructuring has to happen, it should be six or one, and the reason I mention one, I am chairman of the roads committee, transportation in the county of Simcoe, and I can see where one functioning out over the whole of Simcoe county, as far as roads are concerned, could be a benefit.

The Chair: Thank you very much, Reeve, both for the township presentation and for your own personal comments. Just before going to questions, if I could just say to members we are getting tight and if we could keep that in mind. I'm going to have to be tighter. Mr Wilson.

Mr Jim Wilson: Very quickly then, Mr Chairman. Thank you very much, Reeve Wines, for an absolutely excellent presentation. Just a couple of points.

The first one is section 9—I think when it's the parliamentary assistant's turn perhaps he could clarify that—regarding voting on committees of county council, and I think you'll find the explanation there is that that's a permissive clause which says the status quo of one vote—I understand there's been a bylaw passed at county council to go to the one-vote system for committees—can stay, but at some time in the future if county council wants to go back to the plurality system on committees, this clause allows them to do that.

I'll leave it and perhaps you could keep your comments until you hear the full explanation from the parliamentary assistant. I'm inclined to delete it, as per your request in your brief, and may, depending on what happens in the next 12 hours, come up with an amendment overnight to do exactly that.

Section 35, I'm glad again that both you and Reeve Currie mentioned that. It particularly disturbs me in light of some of the things we heard in the last election from the NDP about the environment and the need for environmental assessments, and now we have, through a restructuring bill which, on the surface, doesn't appear to do anything about environmental matters, a major change in policy from the government in terms of allowing expansion of landfill sites, or allowing who can dump into those landfill sites in terms of expansion through the back door, I would argue, and I think through your brief you would agree.

I want to ask you about costs. We asked Reeve Currie the question about an administrative building. I think ratepayers are worried that there will be additional costs, that the province, given the uncertainty of the transitional funding, won't be picking up the tab over the long run on this. What are your personal views with respect to the costs of restructuring, because, as you know, the driving force, we're told, and the reason that we have to have restructuring is that larger units will be more economic in the long run. What's your opinion on that?

1110

Mr Wines: That's right. I guess I could answer the last part first, maybe. There are only so many dollars to go around. In our enlarged municipality, we've still got the same amount of roads, so dollars won't be saved.

As far as the municipal building goes, each of the four of us has a building worth \$1 million to each of us because it is serving that purpose. But it will not serve that purpose as we go into the larger municipality, and I think you're all aware that it will cost us money.

I guess, really, through cooperation, maybe we can cut costs, but a municipal building is certainly something that is going to have to happen. I can tell you right now, as well as a municipal building, I do look to the future for what else it can contain, and it should be containing a police station as well. We have the provincial police back in Stayner housed in a building that's completely inadequate, and so if we were to stick with provincial police, it should entail provision for provincial police. Down the road it could change to county police as well or town, but I hope it doesn't change from provincial police. They have, in my estimation, the state-of-the-art equipment to handle all our needs.

Mr Jim Wilson: Just in response to that, I don't think there's any plan, certainly in the foreseeable future, to change from the OPP. There are plans in the works, as you know, with district 7 and their service area. In fact, I think there's good news coming up in the future that we'll in fact have better service as a result of amalgamations with the Stayner, Wasaga Beach and Elmvale detachments. But that's coming up in October, and I think to a degree is separate from restructuring.

Just one quick question: I'm very glad, because I do not know at this point whether Tosorontio and Adjala are appearing before the committee, but you mentioned something that I have used as an example, and that is, there are a number of principles set out for restructuring—self-sufficiency was the big one. We were told when the south end was done that the government of the day wanted municipalities to amalgamate into self-sufficient units wherever possible.

In my opinion, Tosorontio and Adjala are not self-sufficient units, they don't have the services between them to become self-sufficient units and I'm wondering if you can enlighten this committee on how in the world Tos and Adjala got put together in the first place, because to me, if county council was to be consistent, one only has to look at Tos and Adjala as an amalgamation that defies all the principles that supposedly county council was following as the reason for restructurings.

Mr Wines: Strange that you might ask me that question, because I was going to tell you anyway. Had I had the opportunity of sitting on that restructuring committee, I'd have got what I wanted. I might as well be blunt about it. It was really disgusting to see the way that committee carried on, if you want to know the truth.

As far as Tosorontio and Adjala go, both of those reeves sit on the restructuring committee, and I can tell you the truth. In one instance, the reeve of Tosorontio was away one day, and when he came back they had put Tosorontio with Essa, and that certainly changed it right off the bat back to where it is now.

Mr Jim Wilson: Sorry, it was put with Essa at one point?

Mr Wines: Yes, it was.

Mr Jim Wilson: Then how did we get it put in with Adjala?

Mr Wines: That's your political action working. That, I guess, would be backroom.

Mr Hayes: Previous presenters, including you, Mr Wines, have made the comment about south Simcoe pushing this restructuring through, but are you aware that if you took the south Simcoe area out of the vote, that vote still would have carried?

Mr Wines: Well, there are doubts, because the whole picture could have changed. You can't really base your facts—

Mr Hayes: If you took those votes out of there, it would still have carried.

Mr Wines: Yes, the way it ended up. But had they not been allowed to vote or participate to start with, it could well have ended up differently. When I first came on county council, the statement was made, "If the county doesn't restructure, the province will." My reply was: "All right, let's force the issue. Let's not jump into this till we have to."

The Chair: Reeve Wines, I want to thank you very much for coming before the committee today. And the next time I'm in a canoe, I'll do better.

Mr Wines: You see the restructuring going this way or I'll likely drown you. Thanks for giving me the opportunity to present my brief and comments.

TOWNSHIP OF CLEARVIEW

The Chair: I call on the township of Clearview and the administrator-designate, if that's the correct term, Mr Ted Hannan. Mr Hannan, welcome to the committee and please go ahead with your presentation. I hope you don't canoe as well.

Mr Ted Hannan: No, I don't canoe, but I do hunt and I met Mr Conway up in the bush in Renfrew county once a number of years ago. I don't know whether he remembers that.

Mr Chairman, ladies and gentlemen, members of the committee, as administrator-designate of the new municipality, I'm not going to speak either for or against restructuring. It'll probably be a bit of a change from what you've had in the hearing to date. However, there are some things about Bill 51 that, as one of the people who's going to be involved in implementation if it goes through, we do have some concerns. Most of

them have been briefly touched on by the political representatives who have already spoken, but I want to stress that we are the people who are going to have to implement it. We are the people who work in this every day. We know municipalities better than the authors of the legislation. We know the day-to-day operation, and we see some problems with the bill.

Part I of the bill deals with new municipal boundaries. Subsection 2(7) states that before January 1, 1994, the minister shall prepare the schedules and have them published and registered. I would remind the committee that the regulations form a very important part of the bill and, without knowing exact final boundaries, the municipalities cannot provide the ministry of revenue with the final ward and poll information; final equalization factors cannot be determined; and the return of the collector's roll is delayed. Because we do not have a uniform base year of assessment throughout the county, 1994 budgets are going to be tough enough without adding a late return of the collector's roll. It has been almost a year since we saw the draft of what is now Bill 51, and it is time that the final schedules are completed.

Section 44 speaks to ward proposals on behalf of local municipalities and the submission of such proposals to the minister by December 1, 1993. The authors of the bill obviously realized the importance of the timing of the submission of the ward proposals, as in the draft legislation the submission date was June 1, 1993.

For the reasons I previously stated, I would urge that the Ministry of Municipal Affairs ensure that the proposals are received well before December 1, 1993. Put the heat on the local municipalities, if this thing is going to go through, and make sure those are in. But in order to get them in, we've got to have to have those final boundaries. If we're dealing with final boundaries in December, when a collector's roll is normally returned in December, we're looking at doing municipal budgets in the summer of 1994.

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The conveyance of capital assets in section 47 is somewhat confusing. Although subsection 47(3) states, "The minister may by regulation define capital asset for the purpose of this section," without the definition I would question whether or not the section is enforceable.

Probably the most contentious issue is reserves and whether or not they're a capital asset. If you use a reserve for a capital project, you have simply transferred an asset from cash to some other form of capital asset. Is this a conveyance?

Further, if a municipality does dispose of or convey a capital asset valued at more than \$25,000, what are the penalties? Who is responsible? Am I responsible as treasurer? Is the council responsible? Who's going to establish the value of the capital asset? You've got a

three-year-old grader. Is it worth \$20,000? Is it worth \$50,000?

If we are looking at January 1, 1994, as the implementation date, the lateness in the calendar for third reading and royal assent probably makes section 47 redundant. It is a section that, if left in, may come back to haunt us at some future date.

Human resources are the most expensive and most difficult-to-replace resource of a municipality. Section 53 basically guarantees that any employee employed by the municipality on July 1, 1993, who continues to be employed until December 1, 1993, has a job on January 1, 1994. It does not address the employee status on January 2, 1994, but again states that the minister may by regulation provide for the security of employment, the protection of benefits early retirement options and definitions of "employees" and "retired employees."

Ladies and gentlemen, the municipal employees of Simcoe county, because of restructuring, have grave concerns for their jobs. Municipal councils, at least in Clearview, are prepared to address this issue and develop a program with respect to job security and continuation of employment. If the minister is going to make regulations, then we need to know what they are now. It is difficult for a municipality to take a package to the employees when the rules can be changed by a Bill 51 regulation.

Bill 51 has probably done more to destroy the employee-employer relationship than any other legislation or policy in my 20 years in municipal business. This is evidenced by the fact that the township of Sunnidale, which has two full-time hourly rated and three part-time hourly rated outside employees, in June 1993 applied for and received union certification. The same is true of the village of Creemore, and the outside employees in the town of Stayner have applied for but have not yet received certification.

Ladies and gentlemen, I am not saying this because I am against unions. I'm saying this because employees who were part of a family organization and did not feel that they needed that job protection now have these concerns and we can't address them because we don't have the regulations. They have the fear of the unknown. Give us the tools to work with and let us know what we have to do so that we can get on with the job.

The last matter on which I wish to speak is financial and deals with the transition grants to the local municipalities. It is my understanding that there will be a grant to the new municipality of Clearview in the amount of \$200 per household in the town of Stayner, the village of Creemore and the township of Sunnidale.

Municipal councils and staff of the four municipalities that will make up Clearview have been working very hard and have spent a lot of time and resources to

prepare for a smooth transition. We are now at the point that in order to proceed we must make substantial capital investments in such things as compatible communications equipment. And, Mr Wilson, you were asking about a municipal office. That's just a small amount of the capital expenditures we're going to have to get into.

We've looked at expenses for our communications equipment and we're dealing with four different radio systems we have now, three fire departments and four roads systems. To make just the fire systems compatible, our initial cost is estimated between \$50,000 and \$60,000.

We also have to be looking at computer hardware and software and housing. I might say that as far as our computer software and hardware goes, the four municipalities got together this year. Sunnidale did the tax bills for all four municipalities. This is a form of municipal cooperation that can go on without the restructuring and so on. There is municipal cooperation there, and we are working to get ready for this if it goes.

I can find no mention of the transition grant in Bill 51. We were first told that it would be paid after the first reading, and then after the first reading we were told there was a technical problem because the new municipality does not exist. We would like to have some assurance that it will be paid. The municipalities are not in a position to proceed with these capital expenditures without assurance that Bill 51 will be passed and the transition grants received.

I prefer to end the presentation on a positive note. Perhaps the greatest benefit of the Simcoe county study on restructuring and Bill 51 is that it has brought many bordering municipalities together to look at municipal cooperation in a host of areas.

Clearview is currently working with a 23-member council and four municipal administrators. Cooperation and a spirit of working together have resulted in exchange of ideas and some operational changes, and a better understanding of our joint interest. Examples of joint ventures include the setting up of the Stayner-Nottawasaga fire department, the town of Stayner taking over Creemore and Sunnidale street light maintenance, and the township of Sunnidale producing tax bills for Nottawasaga, Stayner and Creemore, just to mention a few. These are all improvements which have come about largely because of the Simcoe county study and the necessity to work together towards a common goal.

As administrator-designate of the township of Clearview, I can assure those present that the administrative staff of the four member municipalities are professionals who are proficient in their jobs of operating a municipal business. We will continue to provide service under the direction of council to the inhabitants of the municipality, whether it be Clearview or the town of Stayner, the

village of Creemore, the township of Nottawasaga and the township of Sunnidale.

I wish to express my thanks to the committee for providing me with the opportunity to make this presentation. I have a question I would like to ask the parliamentary assistant, but if there are any other questions, maybe I can bring it up at the end.

The Chair: We have a number of questioners, beginning with Mr Eddy, then Mr Waters, Mr McLean, Mr Wilson and then the parliamentary assistant, if you could just be a little conscious of time.

Mr Eddy: Yes, we'll be conscious of time, realizing that this is time really well spent. I want to thank Mr Hannan for coming forward and giving us such information as he has regarding the problems around the many changes.

I feel very, very strongly that what we must do before this bill is given final reading is to have the boundary schedules—and that's been mentioned—to have the regulations, to have the financing in place for all of the municipalities, which leads me to the question. Would you respond about how strongly you feel that if this bill goes forward, the effective date should tie in with the next municipal election rather than an interim period, realizing that the time could be well spent in preparing for the final? We could pass the bill but the effective date would be a year later, to be tied in with the municipal election.

That would give, if there are going to be new municipalities, restructured municipalities the opportunity to be reassessed on the same basis. Whether or not that's market value assessment would be up to the council to decide, but there have been many problems where municipalities were restructured under regional government that lived with different bases for assessment and it was absolutely chaotic.

1130

There are so many things here that I think should be put in place that you need the time and all of the proposed new municipalities need the time. The other point, of course, is the fact that some areas are being annexed—transferred, shall we say—from the present municipality to new municipalities. Those residents feel they're being disenfranchised and that's come up. That would be taken care of if we waited till the next municipal election.

Would you comment on the merits of that or, if you don't see that as the best solution, and certainly I do from all we've got from these hearings, what other way do you see of changing the proposal from the standpoint of effective date?

Mr Hannan: We have two philosophies here as to how this could happen. If we go on January 1, 1994, we're going to be jumping in, both feet, to something for which we're not ready, because we still cannot

proceed with these capital expenditures until we get third reading of Bill 51 and royal assent. We can't spend several hundred thousand dollars and then have something happen and the bill not be passed. That just won't work, so we're going to be into the late fall, the time when I'm up in Mr Conway's territory and so on, before the bill is passed.

However, the advantage we would have at it being passed on January 1 is we are going to be dealing with people who are familiar with the municipalities, and we're going to have a lot of people we can put on committees who can do the tremendous amount of work that has to be done.

If you carry that one step further, then when you get to the 1994 election, you're going to have a lot of the major work done. People coming in who are green, the new people, aren't going to have to know the complete history the way the people, the politicians who are there now do. On the other side of the coin—and I wasn't really prepared for this, but I would think that if I had my druthers, I would take going with the next municipal election because we have what we're calling a transition council. It really is because the township of Clearview does not exist at the present time, but this transition council is working very well together. I'm amazed that we can put 23 people in a room and maintain some semblance of order. I've seen a five-man council that hasn't made out as well as this one has.

Notwithstanding, if it were left to the 1994 election, then we would still have the benefit of the experienced politicians. They aren't going to be able to pass the bylaws and so on, but we, as the municipal people, can get things together. We can prepare all the bylaws, prepare all of the necessary administrative documentation to make it go on the date it's supposed to happen.

The Chair: Mr Eddy, could I just ask this witness—I just want to make a clarification on that point which may assist in the questioning.

Mr Hayes: We'll refer it to Mr Griggs to address some of your concerns.

Mr Griggs: In fact, the running of the 1994 municipal election was one of the major considerations in the choice of the implementation date and the reason it was chosen as January 1 is, of course, you need returning officers for those new municipalities. You need to have somebody to run those elections for the new municipalities and to do that the municipalities have to exist as legal entities. In fact, from January 1, 1994, to the municipal election is the shortest transition period possible and still be able to run that election as a normal municipal election.

Mr Eddy: I don't really agree with that because in the formation of the regional municipality of Hamilton-Wentworth, the regional council for the municipalities, which did not exist, took place in September. In fact, I

think it was earlier, maybe late August. They took office, or they were mandated as of September 1 to proceed to prepare for when they took office on January 1. The new municipalities did not come into being until the following January and that gave them a plus. I was just thinking, I don't know why that couldn't happen, because it has happened in the case of restructuring counties into regional municipalities. I'm very familiar with that one.

To conclude, are you in favour, if this bill proceeds in the restructured municipalities—do you say we should proceed, if it's going to go, pass it as early this fall as possible, but the effective date for the new municipalities and therefore the new councils would be the tie-in with the municipal election date in 1994?

Mr Hannan: That would definitely be my personal preference, yes.

Mr Eddy: It has many advantages.

Mr Hannan: There are many, many advantages.

Mr Eddy: Which you could list.

Mr Hannan: Yes.

Mr Eddy: Thank you very much.

Mr Hannan: With the technical section of that, this is the government of the day. The Municipal Elections Act can be amended to handle this. I fail to understand how that's a problem.

Mr McLean: Can you give some indication of the estimated cost there would be with regard to the new administration centre and the other things you have mentioned? Is it going to be \$1 million or \$500,000?

Mr Hannan: I would say we're looking somewhere between \$750,000 and \$1.25 million.

Mr McLean: Where are you getting that money? Where is that money going to come from?

Mr Hannan: I guess we're going to have to go out and chase for it. If restructuring goes ahead, we will get a little bit from the province and we will probably have to go back to the taxpayer for a substantial portion of it. We have also taken a look at municipal savings. It will take us a long, long time to make up that money from savings in the larger municipality.

Mr McLean: Is anything coming from the province, that you know of, for that?

Mr Hannan: I understand we're going to get slightly in excess of \$400,000.

Mr McLean: The three municipalities, small ones—they will be debt free, I presume?

Mr Hannan: That's right.

Mr McLean: They are, and—

Mr Hannan: Sorry, that's not quite true. Creemore has a small debenture, around \$80,000, on the shed and that's it.

Mr McLean: What's Stayner owe? What's their debt?

Mr Hannan: It's \$1.4 million.

Mr McLean: Do you feel the municipality now is going to pick up that debt or is that going to stay with the taxpayers in Stayner?

Mr Hannan: With Stayner, its debt, the sewer and water and actually there's also a hydro debt there too—that will remain with the utility. The hydro debt, of course—the Stayner and Creemore hydro facility will be amalgamated. Therefore, the Clearview hydro will include Creemore and Stayner, so that'll be distributed that way.

Mr McLean: What about the arena?

Mr Hannan: My understanding of the arena is that it will be spread over the municipality.

Mr McLean: Thank you.

The Chair: Mr Waters and Mr Wilson.

Mr Waters: My question deals with one of the things I always worry about—I guess being raised part of the time in Simcoe county and that—which is road equipment and how this is going to work. Are you going to have a shortfall with the combined townships as far as road equipment for snow removal or maintenance? Do you see any major expense there?

Mr Hannan: The major expense in roads is again going to be housing. We have buildings that are adequate for our present needs but, once you start getting to a point where this equipment is now going to be used throughout the entire municipality, your location of buildings is wrong. Nottawasaga has a works building that—it's time for it to be replaced. If it's being replaced, and we're restructured, it probably should be moved towards Stayner. That way we can close Sunnidale Corners, but we're still looking at this major capital expenditure to do this.

1140

Mr Waters: Okay, You mentioned fire department and, as a past resident of Edgar, I seem to recall some years ago, and I thought it was throughout Simcoe county, that there was sort of a shared service or a co-op, I guess it is—

Mr McLean: Mutual aid.

Mr Waters: Ah, that's the term. Mutual aid.

Mr Hannan: There's mutual aid, but in order to participate in mutual aid you have to be able to respond with like equipment. Nottawasaga was buying most of their fire service from—well, they're buying it all from Stayner, from Creemore, from Collingwood; much more economical to set up their own fire department. Nottawasaga bought a pumper tanker for the town of Stayner. This is being used in the township of Nottawasaga. They wind up with a fire station at Singhampton, which again puts the residents of the township of Nottawasaga close enough to the fire halls to get them low insurance premiums, which are all things municipal governments

are supposed to do to enhance the—

Mr Waters: I just didn't understand. I didn't realize until you clarified it that indeed you were buying service, so you didn't have the equipment. I couldn't figure out how you lost fire trucks or something in this deal.

The other thing, I keep hearing about arenas and I seem to recall some years ago when I was down around the Thornton area that the community of Thornton built their own arena. They didn't borrow money, they didn't get anything from the province or anything; they wanted an arena and they went out and built it. From what I can gather, they are not the norm in Simcoe county. Everyone else has gone out and has massive debt with their arenas.

Mr Hannan: I think you'll find, Mr Waters, that they did theirs at the time when Wintario was going, when grants were available. At the time the Creemore arena was built there was a 75% grant available from the province for arenas. When the Stayner one was done it was 25% or something like that. It makes quite a difference.

Mr Waters: From my history, I'm trying to figure out in my mind how these things have happened. Thank you for those clarifications.

Mr Hannan: The other thing that happened was the Stayner arena was all of a sudden condemned—

Mr Waters: I've had that experience. I have an opera house—

Mr Hannan: We know how all that happened too.

Mr Jim Wilson: Thank you, Mr Hannan, for your presentation. I think, since you're the administrator now for the proposed township of Clearview, this is a fair question. County councillors over the past couple of years, some of those who were in favour of restructuring, have said to me that townships like Sunnidale and Nottawasaga don't pay their fair share of services that the residents receive from adjacent urban areas like Collingwood and Wasaga Beach. The reeve of Sunnidale mentioned, for example, Sunnidale is surrounded by—there are four arenas, I think, that residents can go to. Although those same county councillors have never been specific about what services you are accused of not paying your fair share for, or the township—I assume it's libraries, the YMCA in Collingwood, arenas, that sort of thing.

Can you comment on that? I'll just tell you that my response has been, well, I don't think that's in itself a good reason why you should restructure the whole county. If you've got a problem with Burnfield not paying his fair share, then for God's sake send him a larger bill. Am I naïve in that respect, or what's your comment?

Mr Hannan: It's like buying any service, or any municipality providing service, one municipality to

another. The person who's purchasing the service always seems to feel they're paying too much; the person who's selling the service feels they're giving it away. This happened with Nottawasaga and Collingwood in purchasing the fire service. I will speak specifically of Sunnidale, because I know Sunnidale best. As far as the services that Sunnidale is receiving from other municipalities are concerned, the big one would be the arena. When the Creemore arena was built, there was major fund-raising that went on in Sunnidale for the Creemore arena. It was the Creemore and District Lions Club, made up at that time of about half Sunnidale residents, which spearheaded the campaign. It was the same thing when the Stayner arena was built. The other thing is that we also have people coming from most municipalities, using Sunnidale's recreation park. We have a great park there, ball diamonds—it's just a super spot. People come to our annual winter carnival.

The other thing is that we are a bedroom community for the Barries, the Collingwoods, even the Stayners. We are supplying the residential services to the people who are working in those urban centres where the businesses are paying the business tax, the commercial tax, which the rural municipality does not participate in. In that way, part of the tax base in the urban areas is actually being generated by the residents from the bedroom community. If you were to take the people who work at LOF Glass in Collingwood, at Canadian Mist, at Honda, all the people in Sunnidale who work out of there, and prorate that against the business tax that those urban municipalities are getting out of those businesses, I think you'd find rather interesting the numbers you'd come up with.

Mr Jim Wilson: I think that's an excellent point. Mr McLean and I are just conferring. It's a point we've not heard before. It sounds like an excellent argument to me and I thank you for it.

Even with restructuring, though, there may be fewer service agreements. For example, there won't be service agreements for fire between Creemore and Nottawasaga, I would assume, because you're all in Clearview, but there still will be service agreements with your urban neighbours.

Mr Hannan: Certainly. There will have to be. There will be fire agreements with mutual aid. We have agreements with Base Borden now on fire. We have agreements with the county on county forests. There will be agreements there. There will also be people from Sunnidale who will continue to use the Angus and the Wasaga Beach arenas. I'm not sure how library services be handled, but there will be people from the north and south end of the municipality who will be using Essa and Collingwood.

The Chair: Thank you very much, Mr Hannan, for coming before the committee today. We appreciate it.

Mr Hannan: Just before I leave, I said I had one

clarification I'd like to have from the parliamentary assistant. This deals with the point that Reeve MacDonald brought up on the assumption of assets and liabilities by the new local municipality. If I'm reading the legislation correctly, the assets and liabilities of the four former municipalities will become the assets and liabilities of the new municipality. It is acknowledged that the transition council can pass a bylaw designating an urban service area.

But the other thing that I see is that the minister, also during 1994, may make regulations identifying urban service areas, defining costs of a local municipality that will relate to the urban service areas and designating upon what areas or rateable property, including business etc., etc.

What is the purpose of that clause? What are you telling us here?

Mr Hayes: I'm going to refer that to Mr Griggs, if you don't mind, so you'll get it first hand.

Mr Griggs: Again, this is a fairly standard provision in most restructuring legislation to provide for the payment of services by residents who receive those services. The definition of "urban service area" states very clearly that an urban service is a service that's provided to a specific area of the municipality. That regulation-making authority for the minister is to apply an urban service in one of those areas. It provides greater flexibility in the implementation of urban service areas.

1150

Mr Hannan: Sorry, it is for the minister to—I don't understand.

Mr Griggs: Either the municipality can pass a bylaw or the minister may, by regulation, implement an urban service area. That's what the section states.

Mr Hannan: Why would the minister, by regulation, implement a—in what instance would this happen? What does this mean to us?

Mr Griggs: I can't speculate on reasons. There may be a case where a municipality chooses not to implement an urban service area and there is a question of fairness, where residents in the municipality feel that they're not being represented by their council; for example, a sewage system that would be charged to the entire municipality where only certain residents are benefiting. This would allow the minister to establish an urban service area.

Mr Eddy: I would think, myself, it would be in the case where a council refuses to act, maybe, for some reason or other. But also, it might lead to the minister's desire to have uniform rates for the various urban service areas in a municipality. This has happened in some of the area municipalities of the regions, or indeed across the regions. That is a possibility, it would seem to me. I don't mind speculating.

The Chair: One last comment and then, I'm sorry, we're going to have to move on.

Mr Griggs: I should also point out that the regulation-making authority is limited to during 1994—

Mr Hannan: I realize that.

Mr Griggs: —and also that where this provision is in place in the south Simcoe legislation, it was used only at the request of the local municipalities.

The Chair: Thank you again for coming before the committee.

BOB GIFFEN

FRANK HAMILTON

The Chair: If I could call in Mr Frank Hamilton and Mr Bob Giffen, who are going to make a joint presentation, then, following them, our last presenter will be Mr Joe Sheffer, the community development commissioner for the town of Collingwood. Mr Hamilton, Mr Giffen, welcome to the committee. Please make yourselves comfortable.

Mr Bob Giffen: I'm a little raspy this morning myself. I think Burnie's combine's been kicking up a little too much dust and blowing it up into Nottawasaga. Anyway, we'll do the best we can.

The Chair: For the committee, would you mind identifying which of you is whom.

Mr Giffen: Okay, I'll get to that. Mr Chairman, members of the commission, members of Parliament, ladies and gentlemen, my name is Bob Giffen. My colleague with me here is Frank Hamilton. We both live in a small hamlet called Glen Huron in the township of Nottawasaga. By the way, we're very proud of that name, village of Glen Huron in the township of Nottawasaga.

Mr Hamilton operates a fairly large operation with farms, feed mill, building supplies, hardware. The family has been in Nottawasaga since the mid-1840s. We live just down the road a little piece from them. Our family has been there since the mid-1840s. We also have farms, broiler chickens, including a lot of acres of apples and an apple packing business. Our families have been in this community for a long, long time, going back to our ancestors.

Actually, one of my ancestors owned the land that is now Creemore, but he owned it for only a very short period of time. He thought he had a great deal on it. He bought the land for \$300 or \$400 and he doubled his money on it. He thought he was doing all right back in those days. He sold to Mr Webster and Mr Webster ended up doing a lot better. He actually started the town of Creemore.

Anyhow, getting on with it, you are catching the residents of Nottawasaga at a real low. We have been told that, more or less, we're getting railroaded into restructuring. We've almost given up, besides the fact

that we're right at harvest time. But Frank and I thought that somebody had to step up. That is what we are doing here today, to tell you, just from the grassroots, what our feelings really are.

Both of us spend an awful lot more time running our businesses than we do sitting in front of microphones and getting into many political issues. We're sitting here just telling you, the best we can, what we really feel about restructuring. I wrote down a few notes this morning, in between phone calls and kind of getting our men heading off in the right direction on the farm today. We really didn't get much time to get things prepared, so I wrote down a few notes and I'll present them to you now.

We will lose the communities that our ancestors began and were proud of. They had high hopes that their children would carry those on. By restructuring we're losing that. They must have had a feeling in their minds that they were doing the right thing. With that, community spirit will be lost.

Our council members, who presently enjoy working for people at very low cost, will be no more. It will take our children's children to ever accept the name Clearview. I would be almost embarrassed to go out and tell somebody where I come from. As I said before, I'm very, very proud of the name Glen Huron and very, very proud of the township of Nottawasaga.

As a matter of fact, in our little post office in Glen Huron we don't go by numbers, we go by names. Sometimes you go out and when you tell somebody where you come from and you give them your name and address, Glen Huron. "Do you not have a box number?" I say, "No, we don't need it." We're really proud of that.

Someone said here a while ago that those things will still remain. I don't think so; I think they'll be gone. I think if we try to hang on to our heritage and our names, I firmly believe that someday somebody is going to come along and tell us to tear down the signs, "We want Clearview; we don't want Glen Huron," and Nottawasaga will definitely be gone.

The bureaucrats who started this, and also the ones who are going to administrate this, will never understand the feelings behind our small rural communities. Our feeling is that taxes will double. The hamlet of Glen Huron is one of the busiest in Nottawasaga. We have two companies running out there, both Hamilton's and ours, and there has been an old saying that there are more people who work in Glen Huron than live there. Nobody has ever come up and contested that, so I guess it's still right. That is in the whole province of Ontario. More people work there than live there.

Between the two companies we do have a lot of buildings. I know on our one building alone our taxes are \$12,000 a year. Sometimes it's tough to pay it, but

you get the job done. We don't feel reluctant to pay that amount of money on that building at all, and that's just one building. If that were to double, and in my mind it will, I just don't know how we're going to do it.

I remember a couple of years ago I sat in a meeting with a bunch of apple growers. We're running on a pretty low margin of commodity when it comes to farm products, farm building supplies, farm services. We work on low, low margins and we can't take more expense. We sat at a meeting, here a couple of years ago, among a number of other apple growers, and that's the time that minimum wages were going to have to go up. Everyone said, "Minimum wages are going to have to go up." We sat there and said: "How can we pay more wages? We're not getting enough for our apples to pay more wages." Nothing against the Minister of Agriculture and Food—I think he's been a great guy for farmers—nothing against him whatsoever, but his comment was, "You're just going to have to get more money for your apples to pay these extra wages." Where are you going to get it?

This past season, just this past season, we took a 20-year low for our apples. You can't put a price on our products, but yet you're coming along and putting a price on our expenses. You're going to put us out of business.

Going on with that—I'm kind of losing my train of thought here—small towns and small-town offices will be shut down and huge, expensive administration buildings will take over. Now, I've heard here today that that's not necessarily going to happen, that our expenses are going to actually go down. Get real, guys. Get real. They can't go down.

1200

I remember my dad, who was a board member for the Collingwood and district collegiate, and back in those days they worked for nothing. I can also recall they had the odd steak dinner as they were meeting, and I'm telling you, the people were right up in arms about these steak dinners that these guys were having every now and again while they were having their meetings.

I'm sure back in those days there were tables just like this and they were sitting around these very same tables and saying: "These costs are too high, people. These costs are too high for running all these little boards all around the countryside. We're going to have to amalgamate and get them all together. Why don't we form one big board and run these schools from one office?" I'd like one mother's son to stand up here today and tell me that that ended up being cheaper. I don't think so. I think it's cost us an awful lot more by the looks of our tax bills and where our taxes in Nottawasaga go.

So is this one going to be any different? I don't think so. The few thousands of dollars paid to our council members we have in Nottawasaga right now will end up being tens of thousands of dollars to administrators. The

rural people will be paying for urban benefits. I also sat here and listened to people saying that, no, that's not going to happen. I think it will. I really think it will, and so does Frank Hamilton think it will.

I think the people who are maybe the worst to lose are the ones who are in the closer boundaries of these urban centres, and you know, I think if a huge water supply tower comes in or a huge sewer system comes in and these people might have just spent \$15,000 on a sewer system for themselves, it will be shut down and they'll be paying for the water system and the sewer system that actually comes in from the urban centres. So they're not going to gain. There's no way.

We will lose much of the government funding we are now obtaining in our small municipalities. Now, I could be wrong in saying this, but I think we're going to lose much of our government funding that is now coming in to our smaller communities and only get the same amount of government funding that comes into one large community. So instead of getting the funding that we're getting in all the small ones now, it will be narrowed down to the same funding in a much larger community.

I guess in summary, it looks like our urban communities around us, with the exception of Creemore, are wanting the benefits of our township of Nottawasaga, and I guess the residents of Nottawasaga are not wanting to give up the benefits that we have. We don't have expense, we don't have huge debts, and we don't want to lose that.

I just want to make one little mention too, kind of like the David and Goliath story. The little Davids are the little townships of the world that can have a lot of power. It's something like we have a business in the area that I have a couple of good friends who work for, and that is Miss Vickie's chips. They came to me one day and they said: "Oh, boy, things are going to be great now. We're bought out by a big, large company called Hostess. We're going to be busier than we ever were. Our trucks are going to be going down the road full. We're going to be working 15 hours a day trying to keep up, and they're going to keep the plant going and hire all kinds of help, and it's just great." I said: "Guys, you'd better start giving your heads a bit of a shake. I'll bet you within the year the jobs will be gone, the plant will be shut down and you'll be looking for work." Unofficially, that is exactly what's happening.

So saying that big—big does not work. Small can get the job done. Small business gets the job done. Small business creates employment, and don't take it away from us.

That's about all we have to say, unless Frank has something.

The Chair: Thank you. I'm sorry, did you wish to comment?

Mr Frank Hamilton: Two comments.

The Chair: Yes, please.

Mr Hamilton: I just wondered, the way things are going now with our township and Creemore and Stayner, what is wrong with that? Why do we have to tear it down and do something? If we're paying our way, we're not in debt, people are compatible the way it's done, I can't for the life of me—

Also, I have a fear that the way the county of Simcoe conducts its business will put us into heavy debt. The way our school board is, I'm too darned old anyway, but I feel for the people coming after, the debt that the people of this area are going to put on their shoulders. If I was involved in the county or the school board and said nothing about it, I feel I would be dishonest.

Also, you spoke about the name of the place. At one time a few years ago, I went down south of Orangeville and it said "Caledon - Population 60,000," I think it was. Caledon has I think maybe 300 people. This man with me said, "Holy gosh, I'm going to be glad to see this place." It was confusing for old people like myself.

Mr Chairman, that's all I have to say.

The Chair: Thank you very much. While we are tight for time, I think we really do appreciate having you both come and I will allow a question from each caucus.

Mr Jim Wilson: Thank you very much, Mr Giffen and Mr Hamilton, for taking the time. I know it is a busy time of year for both of you. I think your children and grandchildren will be proud of the fact that you came forward and took the time to express concerns on behalf of not just yourselves but the people of Glen Huron, certainly of Nottawasaga township, and from what I can gather, the vast majority of people throughout all of what will now be called Clearview.

I just wanted to make a statement more than anything, because when you talk about loss of community identity, and I think Mr Giffen talked about losing government offices in small areas, one only needs to look at the restructuring in the south end and the village of Cookstown.

Three things have happened there since restructuring that are very disturbing to the local residents. One is that there is no government presence there any more. Of course, there used to be a municipal office. That had to be moved to a more central location in Innisfil. They're now obviously the Innisfil municipal offices.

Second, there used to be a PUC on the main street; more government presence. It had been there in a historic building for well over 100 years, and that was moved to a more central location in the new town of Innisfil.

Thirdly, last year, of course, we had an enormous battle in Cookstown. I myself was involved in helping to persuade Innisfil council not to change the street

names in Cookstown. What happens in an amalgamated town is, in the case of the new town of Innisfil, the ambulance and fire services complained that there are a couple of King streets throughout the new town now. One of the other towns that makes up the new town of Innisfil had a King Street and Cookstown had a King Street. There was duplication of Queen Street and Mary Street and a whole pile of different streets. So Cookstown, no longer having any government representation, any presence in town, was easy pickings, I think, for the town of Innisfil.

They attempted to change street names and, rightly so, the residents argued: "Well, you change our addresses today, you might as well just take down the signs that say 'Village of Cookstown.'" They very much believe it's the slippery slope. We managed I think in the short term to prevent council from doing that because literally everybody in Cookstown signed petitions and there were huge rallies the likes of which we have never seen in the history of Cookstown.

I think committee members should take it as notice that people who come forward, like Mr Giffen and Mr Hamilton, with these fears, there is historic precedent already in Simcoe county with respect to community identity beginning to slip away. It was a lesson for me, I must say, that when you go to change someone's address from historic streets like King Street, Queen Street and Victoria Street, all hell breaks out in the community. I had never seen the like of it in Cookstown. I dare say the people who come forward I think have legitimate concerns in that respect.

If I ask the witnesses to look at the map, if you look at the map over there of the county of Simcoe, none of the following names now appear. Creemore is not on that map, Stayner is not on that map, Nottawasaga is not on that map, nor is Sunnidale, and that's the official map of the county of Simcoe. The argument is made that locally we will always refer to these areas, but I think as time passes—you mention Caledon, Mr Hamilton. I think of Galt and many other small places before regional government was brought in south of us.

So I appreciate your making the presentation. Sorry about the speech on my part, but I just wanted members to know that there are some very real examples around us already and that many of the concerns expressed by these two gentlemen should be taken as fact.

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Mr Stephen Owens (Scarborough Centre): I want to thank you for your presentation, Mr Giffen and Mr Hamilton. You've touched on a couple of things that I've found passing strange, and I'm a Toronto person. Coming through the number of towns in the last couple of days, there are issues that I still can't wrap my mind around in terms of why this process is moving forward.

I think you raised another issue that other people have touched on, the issue with respect to community

economic development. Over the past year I chaired a task force for the Ministry of Finance on community economic development in the province. You make an excellent point with respect to Miss Vickie's chips and Hostess, which is why I don't buy Miss Vickie's chips any more, by the way.

I think I'd like to have your opinion as business people and employers in the area, your view on how the reorganization and restructuring will affect community economic development within the region. Do you see it as a good thing that will encourage the kind of sustainable jobs that you were talking about, keep the dollars, keep the jobs in the community which this area and many other areas of the province need?

Mr Giffen: I don't think we'll see a whole lot of difference as far as where our employment is going to come from. The thing I do see, though, is the added, unexpected expense that we think is going to be there in the end, the unexpected expense to us and to our employers.

Like I was saying before, we work on low, low margins: high volume, low margin. Farming is completely unpredictable. Our biggest fear is what restructuring is actually going to cost us as businesses to operate. To our source of employment, I can't see a whole lot of difference. We both sell, I guess more so ourselves, outside the area. Hamilton Brothers, of course, sell quite a bit in the area. Whether it's going to make much difference as far as new residents in the area, I guess we can't answer that. But as far as our sales are concerned on our own behalf, a lot of our sales are outside the particular area. So when it comes to selling, I can't see a lot of difference. It's our added costs and expense.

I guess we do get a lot of assistance from time to time from our local council members, from our local works department and so on. If there's a job that has to be done, we can phone them up and they respond quite quickly. I can see that with restructuring we won't get that response; at least in my feeling and Frank's feeling, we wouldn't get that response. All those things add up to saying that we just plain don't like it.

Mr Owens: I appreciate that.

The Chair: Thank you. A final brief and succinct question from Mr Conway.

Mr Conway: I want to thank you, Charles. I'm like my old friend Clyde Gilmour: I refuse to address my friends as though they were furniture.

I want to thank the two gentlemen here because in many ways your presentation is powerful and devastating. When I add it to what reeves Currie, MacDonald and Wines have said, I just feel like putting up a white flag of surrender right now.

As a former Minister of Education, I can tell you that you're absolutely right on the cost issues around the

larger school units. There's no question about that in my view.

Having said all of that, my question is this: If we are going to do what I think you want and what I would like, which is to leave in place the sort of territorial and spiritual integrity of small-town Ontario, can you give me some assurance that some of the experiences that occur in small-town Ontario that have huge bills attached to them won't be transferred to Toronto or Ottawa? I can tell you, as a representative of over 18 years in the Legislature for one of the most rural counties in Ontario, that it's been my duty to take some big bills to Toronto and Ottawa, because there was just no way small townships could pay those bills, and that's been part of the pressure that's driven this kind of process, flawed as it is, and I accept the arguments that have been advanced about the many flaws in it. Do you get my point?

Mr Giffen: Yes, I do. I guess about all I can say to that is that if it's not broken, don't fix it. Right now, in our township, and I can't give you any information on anything outside our township, we consider there's nothing broken and we don't need fixing. We are viable. We pay our bills. I don't think our township, not being political very much myself on the township, is asking government for a lot of money. We seem to be doing the job and getting the job done.

Mr Jim Wilson: Mr Chairman, can I just make a comment on that very briefly?

The Chair: We really are running behind and we have a very long afternoon.

Mr Jim Wilson: Mr Conway makes this very good point, but it seems to me that one of the reasons we don't ask Metro Toronto, for example, or that Metro Toronto is not allowed to ask for school board grants is because it has a sufficient tax base to cover those services. The whole country is built on equalization. I mean, PEI can't carry even a sewer project, I would gather. So what I would add to Mr Conway's is that yes, it's an interesting debate. But one of the reasons we have provincial governments and other layers is to spread assistance around so that everyone is entitled to the same health, so that everybody is entitled to be able to flush their toilets, for heaven's sake. I still don't see that as a reason for restructuring, although I do appreciate his point.

The Chair: Thank you. Mr Hamilton.

Mr Hamilton: I have great confidence in our people who run the two townships in Creemore and Stayner. Most of the people who run them are ordinary people. Bob and I are not college graduates, we're not lawyers; we're just plain, hardworking, I'd say, try-to-be businessmen. I have great faith in them.

Mr Conway: You're just smart and successful.

Mr Hamilton: Which is something that I pay heed to.

The Chair: With that, I want to thank you both for coming before the committee today. We appreciate your presentation.

Mr Giffen: We want to thank the committee for hearing our views and giving us the time slot here today. Thank you very much.

TOWN OF COLLINGWOOD

The Chair: If I could then call Mr Joe Sheffer from the town of Collingwood.

Just while Mr Sheffer is getting settled, if I could just say to committee members that we will be going directly to Alliston and we begin at 1:45. We do have a very full afternoon. It's about an hour's drive, I understand.

Welcome to the committee, Mr Sheffer. It's a pleasure to see you. Please go head.

Mr Joseph Sheffer: Thank you very much. Just for clarity as to the position I'm taking here today, I'm here as a deputy administrator of the town of Collingwood. My portfolio also does include commissioner of community development.

I'd like to preface my comments, really to our local member, Jim Wilson, with regard to some presumption or prejudice that some people may have as to our relationship. I can recall only a short time ago, the time of a tattoo that was occurring on this very premise, my walking around in an election year introducing Jim to a number of people, and I think therein lies my support of the person. That may be irresponsible on this side, but it is a position I took at the time and I think of Jim Wilson as a friend. Friends, as you would well know, often do have differences of opinions on some issues, and we may differ somewhat on this particular issue, but I'm still your friend, Jim.

Mr Conway: Jim Wilson apparently knows Shelley Martel.

Mr Sheffer: To maybe put a historical perspective to Collingwood's position, I'd like to say that the town of Collingwood was carved out of the township of Nottawasaga, in the year 1857, by an act of the united legislatures of Upper and Lower Canada. It was An Act to incorporate the Town of Collingwood, and it happened on June 10, 1857, and was effective January 1, 1858. It was only about a year later that there was a second act passed, on August 16, 1858, which actually deleted lots 41 and 42 in Concession 10 from the town and returned it to the township. There was one further bill that was passed on March 29, 1873, which was An Act to amend an Act intitled "An Act to incorporate the Town of Collingwood" and to define the Boundaries of the said Town, which clarified the northerly boundary, Georgian Bay, between the town of Collingwood and the township. For 135 years, there has been no change to the boundaries between the two municipalities. In retrospect, had things been left as they were in

1857, our position today or our opposition perhaps wouldn't be the same as it is, and not an issue.

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However, such is the case, and we found ourselves appealing to the municipal boundaries branch of the Ontario Ministry of Municipal Affairs in the year 1988. In January 1989, a fact-finder was appointed. A review of Collingwood's existing land use and available development space was undertaken. It was our position that there was very little vacant space that was not protected by bylaw or environmentally, and in fact the town's borders were far too tight and spot development was occurring on those borders by neighbouring municipalities. It was obvious that the positioning was to take advantage of infrastructure provided by Collingwood. As you drive into Collingwood today, you would witness what I have said and you would also note the apparent lack of standards or minimal standards set. There are those who joke about the conditions of these areas, and I can assure you that we in Collingwood do not, as they are important corridors to our picturesque community.

When growth of a healthy community is limited, or in our case stopped, it is not good. Economically it is bad, not just for Collingwood but for the surrounding areas. It discourages new business development and it places the municipality in the position of allowing developers to do our planning; growth is based on the pressures and demands they bring to the table. We need to be in the position to do some real municipal planning that includes land uses, road systems, transportation, water, sewers etc. The restructuring program does provide for such planning over the next 20 to 25 years, and the government is to be commended for this foresight. Another criticism of tight boundaries would be the duplication of infrastructure: structures and services. Another worthy goal set by the restructuring process was to improve upon our efficiency to reduce this duplication, and in time I think there will be a deeper appreciation of this initiative.

At this point, you're probably asking yourself, how did I move from the appeal to the boundaries branch in 1988 to my commendation of the restructuring of our county? As I recall the process, it was in 1989 when our municipality was first informed of the possibility of restructuring, and I can recall when I made my first submission to the study team. It was our position then, and it is the same today, that restructuring is not for any single community; it is for the whole of our Simcoe county. I think it is fair to say that the county decisions are also made virtually every day on that basis. However, today there are those who would have you believe that certain voting members either had personal gain on their minds or didn't really care because their area had already been restructured, a slight on the credibility of fellow elected officials, I would suggest. Having said

that, the fact remains that all issues were voted upon by county government and a majority in favour was received.

I also spoke to the need for unity within the county and the need to identify economic opportunities that support the whole, while at the same time limiting the identity crisis that some people may perceive, ie, rural remaining rural, urban being urban and the natural features not to be split. We submit that the guidelines have been followed to an acceptable measure.

With regard to land use of the new area, perhaps we can put it into perspective. The town of Collingwood is just over 2,000 hectares with some 6,400 households and a population of approximately 13,500, with additional seasonal residents of approximately 4,000. Nottawasaga has a land mass of some 38,000 hectares with approximately 2,700 households and a population somewhere in the neighbourhood of 5,000. This exercise is not about history, even though we must maintain our heritage; it is about our collective future, and we must move forward in the most efficient means possible. Time doesn't permit me to speak to all of our plans, especially because we've run overtime. However, I'd like to note a few that our steering committee has undertaken.

First of all, our steering committee was to provide a forum to coordinate policy development and action within the municipality to advance an effective integration of the approximately 2,800 acres into the town of Collingwood.

Our primary goal was to develop a program to transform the lands to their highest and best uses for the long-term wellbeing of the community.

Our collateral goals were to provide an "as is" mapping of existing uses, physical and economic characteristic of the lands; to consider and coordinate the provision of all servicing requirements; to consider future residential, industrial, commercial, educational, environmental, safety, transportation, parkland and civic needs for the future expansion of Collingwood; to consider developing trends in provincial policies; to consider the objectives of Focus 2000, which is our strategic economic plan driven by the grass-roots level and administered by the elected officials of the town of Collingwood; to consider evolving initiatives in residential, commercial and industrial development; to demonstrate fairness and independence in assigning new land uses; to consider where and how outside services can improve the process; to develop and monitor an optimum timetable and periodic status reports; to provide methods for public consultation; and to anticipate and provide responses to transition problems and threats to implementation of the primary goal.

Our planner has been working with the county on a county-wide program.

In the area of policing, the police services board has undertaken a Nottawasaga work loan analysis. That report determined a need of 2.7 officers and the board has approved the hiring of three officers.

The board intends to call a public meeting of the new residents in October to discuss their needs and concerns and to advise of the level of service they can expect, an excellent service that equals that which we have in the town of Collingwood.

I would also like to speak to the process and what opportunities there may or may not have been to make submissions to the county and/or the government of the day, provincially or municipally. This process has been ongoing for four years. There has been extensive coverage by both the written and electronic media. Study documents and reports have been widely circulated and available. To suggest that there has not been time to prepare for submissions is not quite accurate.

I would be remiss not to resubmit Collingwood's desire to have a one-ward system. Historically, the system has worked well and councillors have represented all areas of the municipality well. The system change to elect a mayor and deputy mayor is also acceptable.

In conclusion and on behalf of the town of Collingwood, may I submit our support of Bill 51 and encourage the government to move forward as hastily as possible, as further delays are costly and will serve no purpose. We also have the task of healing the wounds that have occurred and getting back to our collective responsibility of serving our county.

I thank you for this opportunity.

The Chair: Thank you very much. I'm going to permit one question from each caucus, starting with Mr Conway.

Mr Conway: I very much appreciate the submission. It's clear that we're now hearing some of the other side, and you're vigorous and unabashed in putting that case, and I, as one member of the committee, really do appreciate that.

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Having said that and having listened to you, and you're much more familiar with this process than I am, there's no question in my mind that the people who preceded you this morning are right, to the extent that in the rural areas of Nottawasaga and Sunnidale, for example, I'm absolutely convinced in my mind that five and ten years from now when I come back here, or two years from now when I come back, if this is done, what I will hear and what I will be able to show is that taxes have gone up, disaffiliation with their municipal governments has increased and a variety of other things; that the costs will be, for a lot of people in those areas, up, and the benefits will be diffused and hard to point to in the short and intermediate term.

I understand entirely, I think, the pressures that urban communities like Collingwood have, and I would want to accommodate those. My difficulty, as I hear more and more of the presentations around this, is that we've got a remedy here that overreaches what some of the requirements are. I would ask you, would not a more reasonable and effective measure be some kind of a process that allows, on a regional basis to some extent, yes, but on perhaps a more local basis, the accommodation for the annexation of appropriate portions of the surrounding areas of some of these towns in Simcoe where there are problems and pressures that have to be dealt with; whether we might accommodate to some reasonable extent there without eviscerating the surrounding rural communities that I am afraid are going to end up with all of the detriments and negatives that people can rightly point to in school board consolidations and in a number of the other regional municipal issues that my friend from Muskoka has talked to and others have pointed out as well?

Mr Sheffer: To answer that appropriately, I think we'll be here till about 4 o'clock and I'm prepared to do that. I think I know exactly what you're saying, but the problem as I see it and I think as our municipalities see it is bigger and not as focused as you would like or not as short-term in the solutions. What I'm saying there is that when this thing started out four years ago, it was a means to carry our municipalities collectively forward to the next 20 or 25 years. Well, four years of that have already gone and absolutely nothing has happened other than a lot of expense and a lot of meetings, and I think that there is a majority there that would like to get on with the process.

I think we have to look beyond our county, even. I think it's short-sighted to look at only Simcoe county in today's economy. The walls are coming down, ladies and gentlemen. The boundaries are changing and we're going to have to work together more closely than we ever did. When you talk about expenses increasing, yes, things got out of hand, absolutely out of hand, especially within government. The only people who have been most effective are the private sector, and we should learn from the private sector in the way they do business.

I think the social program is addressing that to a degree, and I applaud that. Within administration, we hear bashing of the administrations of boards of education only. It goes beyond that. It goes into Queen's Park, it goes into the municipality of the town of Collingwood, and if you look at the municipalities that are presenting here today and look at their general administration costs as it relates to their levy, you'll find they're extremely high. The town of Collingwood is 3.9% and the Nottawasaga township is 10.7%. Is that excessive? I think it probably is, so there's this lean and mean attitude that's coming into play, and the cutbacks.

We can't provide the levels of service that people have enjoyed over the past, so they have to expect change, and change will happen.

Now, I can take the other position and say the social program is going to work and your taxes are going to be lower, and so what? Two years from now or five years from now, you may be right; I may be right.

The fact is that we have to do something to change, and unless we start working with the small business farmer, if you like, the small business person in the municipality of the town of Collingwood who is generating jobs and creating revenue and economic development for our areas, unless we start working together and thinking as a whole—very simple: think global and act local—we're not going to move forward. We're going to stagnate. If people think conditions are difficult today, wait till two years from now. They'll be far greater than they are today unless we move forward.

I'm sorry; I don't know whether I've really answered because I can see him rubbing his head and I don't think maybe I've got through to him at this point in time.

But I believe this so sincerely, Mr Chair: This isn't an adversary situation but it has developed into one, and that's why I talk about the wounds. We are going to have to work together to make this, and as we benefit in the municipality of the town of Collingwood, the entire county will.

Mr Wessenger: You indicated in your comments, Joe, that there was a great deal of inappropriate development on the fringe of Collingwood in the past. You now have expanded boundaries. Do you feel these expanded boundaries will give you sufficient control and lands to avoid that problem of inappropriate fringe development in the future, and are you satisfied that Bill 51 in establishing county planning will give sufficient protection to ensure that inappropriate development doesn't occur in future?

Mr Sheffer: I'm not satisfied, but that's a personal thing because our initial submissions were that we felt that the boundaries should in fact be further south and encompass the municipal airport, the Collingwood-owned airport that is in the township. But having said that, we agree to the boundaries as are drawn. There are certain difficulties because of that. I alluded to the joke about the corridor, one of the corridors: They actually call it Dogpatch. The administration from the southern governments laugh about that, as your friend over here is just now. That's not very humorous. I think it's awful that those residents have that label by their own administration, but it exists and it needs to be cleaned up. It's going to take a long time to do that and we appreciate that, but we feel that we have an excellent planning department and our standards and bylaws are such that in time that will clean up.

This additional acreage will afford us the opportunity to do good long-term planning, and that's what this exercise, as I understand it, is all about. It keeps the rural rural and the urban urban. Not only that: It's going to allow us an opportunity to provide for a buffering between the two communities, and I think that's an ideal situation. We'll be able to realign our industrial sector versus recreational versus the residential and properly integrate it under the new rules of the Planning Act. I think, yes, Bill 51 does address that.

Chair, you're anxious, but the additional thing that I think is extremely important is the county planning that's going on. I think that collectively will bring the professionals together to devise a plan for the county so that we don't have this spot development and we know what we are and we do it better than we are presently.

The Chair: Thank you. Mr Wilson, a final question.

Mr Sheffer: Be easy on me, Jim.

Mr Jim Wilson: Joe, I want to begin by returning the favour and thanking you for your thoughtful personal comments. I have a slightly different interpretation of what happened in the last election, but I will save that for the next election.

None the less, just before I ask a question, with respect to the ward system you would prefer to keep the status quo and not go to a ward system.

Mr Sheffer: That's correct, Jim. Our system works very well now; we've not had any difficulties. There may be a little hint of concern: There's some evidence in other municipalities where control from certain areas—I'm being very cautious in what I'm saying—but certain areas that can control or influence a council, and we find that by having a one-ward system you're elected at large by the community and you have to work damn hard to get the support of all of the electorate as opposed to perhaps a special interest that may occur. The other factor is that we appreciate the deputy mayor situation and we're in favour of that as well.

Mr Jim Wilson: Just so you know, I prepared and have in front of me an amendment to allow that to happen. Perhaps when it's the parliamentary assistant's turn, you could comment on that in a minute.

I want to take maybe a little different view of history than yourself with respect to four years ago when you say this process started. It's my understanding, and there's certainly been lots of testimony before this committee, that four years ago the county was asked to do a study whose mandate was simply to study the feasibility of restructuring. Somehow, and I think you'll agree, we went from a study to study the feasibility to these hearings today. We've had, I would say, no clear testimony, including from Nancy Keefe, the former warden, with respect to how exactly we got to Bill 51 when we started off four years ago to talk about feasibility. In fact, I would contend that the questions of

feasibility are being raised at these hearings and it's too late, because we know the NDP is hell-bent on moving ahead with restructuring. You may want to correct me, but I have a slightly different view of history.

I want to ask you this, though: You say you applied back in 1988 to the Municipal Boundary Negotiations Act—

Mr Conway: I think Jim Wilson needs to meet Darcy McKeough.

Mr Jim Wilson: That, Mr Chairman, I will take as a compliment for the moment.

Under the Municipal Boundary Negotiations Act, are you satisfied that back in 1988 the town of Collingwood exhausted all avenues under that act and that restructuring is the only way you're going to get your annexation with Nottawasaga?

Mr Sheffer: There are two points there. No, I won't correct you on how the process evolved, but I can say that it was very clear in the minds of Collingwood council and the administrative staff as we proceeded through this process that it was designed and eventually would end up in a restructuring process. I say that because we abandoned our thought of the annexation, the fact-finding, at that point because it seemed futile to go through one exercise while the other one was up. So we knew where it was going; we just felt that it would happen quicker.

The second point, I forget—

Mr Jim Wilson: The Municipal Boundary Negotiations Act: You said you did a fact-finding in 1988-89 and you exhausted that process?

Mr Sheffer: No, we did not. We abandoned the process when we knew that this What If... study process was going to take place. We moved from that and drove forward our position through the process, but there was no question in our mind that we would be sitting with legislation before the Queen's Park Legislature at some point in time. It's just taken longer than we thought it would.

The Chair: Thank you. The parliamentary assistant.

Mr Hayes: On the point Mr Wilson raised about it just being a feasibility study—correct me if I'm wrong on that—I just want to read part of the terms of reference the committee dealt with:

"To evaluate alternatives and options such as amalgamation, annexation, union of municipalities and the status quo, and to recommend to county council, the cities' local municipal councils and the Minister of Municipal Affairs solutions and an implementation plan best suited to address these issues to meet the needs of the area for the present and to the year and to the year 2010."

I think that's a little different than the message that was being given.

Mr Chair, I'd like, at the same time, to refer the ward system to Mr Griggs so he can answer your question.

Mr Griggs: We have received a resolution from the county of Simcoe supporting the town of Collingwood's position regarding the establishment of a ward system, and it's my understanding that an amendment has been prepared to address your concerns.

Mr Sheffer: The only other point I'd like to make—I think it was Mr Hayes who brought it up, but I might be wrong in that—was about the tax situation and reassessment. With respect to the assessment department, if we have to wait for that it will be many, many years down the road. That is an enormous undertaking. We did it, we did it a number of years ago, we probably didn't go far enough—politically it wasn't wise to move on the residents—but at some point in time that needs to be addressed in our municipality so there's proper assessment within the residential structure.

The Chair: Thank you very much for coming before the committee, and I apologize that at the end of the morning it gets a bit rushed.

May I, just before we break, thank the Royal Canadian Legion for allowing us to use their hall, and also to express our appreciation to all those who have presented this morning, as well as others who are in the audience who have been sitting and listening.

To committee members, we will try to begin as close to 2 o'clock in Alliston as we can. I recognize that we may not be able to quite meet that, but all of the witnesses will be heard this afternoon and we'll take whatever time is required.

Thank you. The meeting stands adjourned.

The committee recessed at 1245 and resumed at 1407 in the Nottawasaga Hotel, Alliston.

The Chair: Good afternoon, ladies and gentlemen. The standing committee on social development is in session. We have a very full afternoon, and I apologize, we're a bit late in starting; we had a long morning in Collingwood. But I just want to assure all the presenters that we will be here until they have made their presentations, even though that may be a little later than when they were originally notified everyone who is on the list will be heard.

Mr Conway: If it's Wednesday afternoon, it must be Alliston.

TOWNSHIP OF ORO TOWNSHIP OF MEDONTE

The Chair: The first presenters this afternoon will be the reeve of Oro township and the reeve of Medonte township, Mr Robert Drury and I believe it's Mr Don Beard.

Mr Ian Beard: Ian.

The Chair: Ian; I'm sorry. If they would be good enough to come forward. Gentlemen, welcome to the

committee. If you would be good enough just to identify yourselves for Hansard, and then please go ahead with your submission.

Mr Robert Drury: I'm Bob Drury, reeve of Oro township.

Mr Beard: I'm Ian Beard, reeve of Medonte township.

Mr Drury: By way of introduction, I'd like to introduce Councillor Murray Martin from the township of Medonte, sitting behind us; Darlene Shoebridge, clerk of the township of Oro; Chris Menzies, planner of the township of Oro; and Henry Saunder, our treasurer from the township of Oro.

Mr Chair, members of the standing committee, thank you for providing the townships of Oro and Medonte an opportunity to make this presentation this afternoon. I guess our member, Al McLean, is sitting in quite a position through these studies, being that some of the municipalities within his riding have totally agreed to restructuring and others haven't. So, Al, I don't envy your position these last couple of weeks, but good luck with it anyway.

Mr Conway: He's a got a few amendments tucked in his back pocket that you'd be interested in.

Mr Drury: Yes, I probably will be.

The joint council of Oro and Medonte and Councillor Thiess from the township of Orillia have been working amicably and consistently on this restructuring venture and are anxiously awaiting royal assent early this fall.

I'd like to first of all refer to the newsletter that I passed out a little while ago. Oro-Medonte have produced a joint newsletter. We've gone out to the public and told them what we're doing every step of the way. We've gone as far as to select a new name for the township, which is Oro-Medonte. Throughout the newsletter, on the first page, back of the first page, we have chosen the new ward boundaries. That's in place. Both joint councils, along with Councillor Thiess from Orillia, have agreed with those boundaries, and we have throughout the newsletter, as I stated before, kept abreast of everything for the public and let them know what's going on. This has happened all through the newsletter. It's interesting, on the back page you may find a statement from the treasurer of the township of Oro, per diems that we received. Not many councils do produce that, but we chose to let our public know everything that's going on.

This discussion will briefly examine our rationale for keeping the portion of Orillia township south of Highway 12 within the new amalgamated municipality of Oro-Medonte specifically related to (1) physical barriers, (2) servicing, (3) assessment, and (4) environmental and planning.

Physical barriers: Highway 12 acts as an ideal physical boundary between the two proposed municipal-

ities. Cross-servicing road agreements are not required as access is limited. The rationale was utilized for the retention of Highway 93 between Springwater and Oro-Medonte.

There is approximately 1.5 kilometres distance between the existing Oro and city of Orillia boundary, which is currently in Orillia township's jurisdiction. This finger of land is not appropriately served as remaining in Orillia township.

The Eight Mile Point area, which hosts residential lots, is split between Oro and Orillia. The county proposal brings this area into one jurisdiction.

Servicing, roads: As stated, Highway 12 reduces the need for cross-boundary servicing agreements. There is currently an agreement between Oro and Orillia township to service the township line and the Eight Mile Point area. The restructured municipality would eliminate the need for these agreements. Road service would be equal to or superior to the present standard in this area. This is due to:

(1) The existing equipment which will not be needed to service the Hillsdale-Coldwater area could be utilized in south Orillia township.

(2) The winter weather patterns typically dictate that the weather currently experienced in Medonte and then through Oro arrives in south Orillia while weather patterns in Orillia township may not be the same conditions as in south Orillia township. Thus plows and sander operators in Oro-Medonte may more easily predict the conditions in south Orillia than staff in central and north Orillia can predict or anticipate the conditions in south Orillia.

(3) The township of Orillia road crews must currently travel through the city of Orillia some two to four miles to service south Orillia township. Oro-Medonte would be able to service roads in their jurisdiction while en route.

(4) Sand stockpiled at Forest Home would provide quick turnaround for Oro-Medonte service of south Orillia with little non-productive travel time.

Fire: The township of Oro currently provides fire protection services to 75% of south Orillia township. The city of Orillia services the Forest Home area. Oro-Medonte proposes to take over this service from the city upon amalgamation. The existing Oro stations at Rugby and Hawkestone are closer to any potential fire calls in south Orillia township than the township of Orillia or the city of Orillia. The city of Orillia also has no tankers to provide service and Oro currently provides this service. The city is aware of Oro-Medonte's intention to service all of its amalgamated jurisdiction with the exception of a small stretch of road which will be coserviced.

Orillia township hosts two pumpers and two tankers. Oro has four pumpers and four tankers and one rescue

vehicle, which is stationed at Hawkestone. It should be noted that the Hawkestone station currently services a good portion of south Orillia township. Medonte township hosts two pumpers and two tankers as well as two rescue vehicles. I might add that the big tanker Medonte is currently looking at is probably one of the largest service vehicles that will be coming on as far as tankers go in the near future.

The fire underwriters survey has advised the township of Oro that a reduction in fire insurance ratings will occur in the north end of Bass Lake and Forest Home upon amalgamation as proposed, and there's an attached letter there to back that up.

Emergency addresses: Oro currently has an emergency addressing system in the municipality. This was designed to allow expansion to Medonte and south Orillia under amalgamation. This therefore would be highly beneficial to those residents in South Orillia and would complement the 911 service they now receive.

Assessment: If as a result of the final determination of the boundary area for our new municipality the township of Medonte is to lose the Hillsdale-Orr Lake area to the new township of Springwater and a portion surrounding the village of Coldwater to the new township of Severn, this represents a total assessment loss of 18.3% residential, 15% commercial and 18% business and decreases the number of households units by 24% and the number of electors by 23%. The portion of the Flos and Vespra area at Craighurst represents a 4% increase in assessment. The Orillia township portion to be added assists to compensate this loss while at the same time it provides for a more effective and efficient area in which to service.

Environmental planning: One of the objectives of the study committee and county was to place all small lakes and respective drainage areas within one jurisdiction. This was a portion of the rationale as to why the Hillsdale-Orr Lake area would be removed from the jurisdiction of Medonte and be amalgamated with Springwater. This thinking is brought forth in the current Oro-Medonte proposed municipality.

Approximately 80% of Bass Lake is currently in Oro. About 95% of the drainage basin is in Medonte and Oro. The county proposal would put 100% of both the lake and drainage basin in Oro-Medonte.

The hamlet of Prices Corner is currently one half in Orillia township and one quarter in Oro and Medonte respectively. The county proposal would put three quarters of the hamlet in Oro-Medonte.

A good portion of South Orillia is proposed to be an urban expansion area for the city of Orillia. Oro-Medonte intend on maintaining this official plan policy, as Orillia township has made planning steps to transfer the jurisdiction of this land in their own planning documents.

In June 1991, a survey of area residents was undertaken door to door by Oro and Medonte's elected officials. Upon surveying the residents of the Bass Lake area, over 75% of the respondents preferred the Oro-Medonte proposal, which is the current county proposal, while approximately 21% preferred the status quo. There's a correction there. It's not 15%, it's 21%.

In summary, we have met with the city of Barrie on several occasions to discuss drainage and development matters, joint planning and to respond adamantly against the city's request to expand its boundary limits into the township of Oro. Those negotiations will be continuing right after the summer recess and I believe we are very close to a settlement with the city of Barrie.

The Reeves of the surrounding townships to the city of Orillia have had meetings and individual meetings will be held shortly with Mayor French on a one-to-one basis at his request.

Since the adoption of the study committee's recommendations by county council, it has been the position of the Ministry of Municipal Affairs that no further boundary changes would be considered unless all respective municipalities were in agreement. At no time have the townships of Orillia or Severn approached our council to consider or discuss any change to these boundaries.

Once again, thank you for this opportunity to make this presentation. I would gladly entertain any questions or concerns the committee may have in this regard. Reeve Beard has a short presentation that he'd like to make.

Mr Beard: Thank you, Mr Chair. With your indulgence, I have a verbal presentation, as I just arrived from AMO. It concerns a weighted vote. It is my knowledge that this has come up before this committee and I would like to take this opportunity to address a weighted vote.

In my opinion, it is not a good idea. If a weighted vote was allowed, the people of the smaller areas would be deprived of their right to participate fully in the activities of the council. The restructuring of Simcoe county is not an annexation of smaller municipalities but a merger of municipalities. I personally have enough faith in my fellow elected councillors to believe that they will work for the good of the new municipality regardless of which area of the new municipality they come from. To weight the votes would deprive the smaller areas of representation, leading to frustration and bickering at meetings. We are all elected equally and justice and fair play demands that we be equals, not junior and senior partners.

Oro council, to my knowledge, and I believe with Mr Drury's consent, has always treated us as equal partners through this whole issue, and we feel very strongly that we should all be equal partners in that we are working

together for the good of the municipality, not for our own parochial interests. I think that's the way all councils should work, and I must congratulate Oro on its attitude towards Medonte in this issue.

Any questions will be entertained. Thank you.

1420

The Chair: Thank you very much for coming before the committee with your presentation. We'll move right to questions.

Mr Conway: I very much appreciate this submission, because we have had a number of other submissions and I think we'll have at least one more to come today which take a contrary position, which would argue that in fact that southern portion of Orillia township ought to be left where it is.

I'm looking at this, and in fact we really have been a very peripatetic committee. I have a pile of paper here and there are some submissions that I would like to quickly go through, to pick some material and have you respond to it, but I'll have to do this by memory.

I look at your submission. There seems to be a general sense from a lot of people who have spoken to us, and your submission makes this point as well, that there is every likelihood that in time much of what I will call that area in dispute, that southern tip of Orillia township, is going to find its way into the city of Orillia.

Mr Drury: Probably not in anyone's lifetime who is even thought of now, or their next of kin. Probably in 200 or 300 years it may. There are small portions of it that probably will.

Mr Conway: But some key portions. I gather there are some very key portions of that area that could very well find their way into the city of Orillia within not too many years.

Mr Drury: I believe you're right, yes.

Mr Conway: I don't know the area. I'm trying to honestly listen to what I'm being told. If a portion of that is heading into the city of Orillia, I've got to tell you, my instinct is to make it one-stop shopping as opposed to three-stop shopping, to say that you take it from Orillia into Oro-Medonte and then back into the city of Orillia. That's one concern I would have.

You make some very helpful points and I'm very appreciative. For example, at the bottom of page 3 you tell us that in June 1991, you surveyed the area residents in that portion, and I have to take you at your stated word here, and 75% of the respondents preferred the Oro-Medonte proposal while 15% preferred the status quo.

Mr Drury: No, 21%. There's a correction there.

Mr Conway: Oh, sorry, 21%.

I look at your brief and I tell you, the one thing that really strikes me, not knowing as much about emerg-

ency addresses, for example, and even fire protection, but I read point 3 under "assessment" and I think I get the point. I understand, I think, what you're saying, but the committee has been faced with a number of these border issues where, if we're to make any kind of sense of this, you really feel that you ought to have been there inside the room when the real talking went on.

Mr Waters: You were outside the room.

Mr Conway: I was outside the room, as my friend from Muskoka points out. These things, as I said yesterday, remind me a little bit of an electoral redistribution, because the lines tend to move around, and there is a variety of considerations, not all of them environmental and familial, if you know what I mean.

My question is, under "assessment" you seem to be saying: "We've got to get some tradeoff here. We've lost some assessment elsewhere, so we have to make it up or we would like to make it up."

Mr Drury: That's one of the points, but going back a little bit, some two years ago we were one of the leaders in the restructuring process. We invited all our neighbouring municipalities, including the two cities, to sit down and discuss it before it even went anywhere.

We did sit down with the township of Orillia. We made two proposals to them. The first proposal was to exchange the Bass Lake area for the Carthew Bay area, the Eight Mile Point area, and the results of that portion of the meeting were that Orillia township would be losing assessment on it; very little assessment. There wasn't much assessment change in it.

Our next position was that it seems to make sense, because we can service that area so easily, that we just move right to the boundary of the city of Orillia, and that was our next proposal to the township of Orillia in a joint council meeting some two years ago.

Mr Conway: I expect by this time tomorrow I may very well see a motion to amend this bill to deal with this particular border question. When I get to that motion tomorrow, I've got to tell you, I'm kind of inclined to look at it very favourably, but I want you to give me now one good reason why I should sustain the status quo as contained in Bill 51.

Mr Drury: Well, I think there are probably many good reasons.

Mr Conway: But the best reason.

Mr Drury: We have been dealing in good faith from the very beginning of restructuring; put all our cards on the table right from the very beginning. I am shocked that we're sitting here today talking about an amendment to the proposal when it was basically conveyed to us some months back that there would be no changes to any of the boundaries unless mutually agreed upon between the municipalities. So I guess I'm in a state of shock, being here this afternoon. I just decided yesterday morning, when I heard some whispering of what

was going on at some of the meetings, that perhaps I'd better make a proposal, and that's why I'm here. So I haven't had a lot of time to prepare for it.

It's common sense and logic that that portion does come to the township of Oro. If you were to take a drive through there, the lakeshore blends in with our lakeshore; the same type of residential development along there. The land that may go to the city of Orillia sometime—in my estimation it won't be for many, many years because the city of Orillia hasn't grown very much in the last 50 years. They annexed, I believe, some 3,000, 4,000 acres a number of years ago and used very, very little of it. They have a great deal of infilling to do before they should be expanding, if they want to play the role of the big city. A lot of their infrastructure right now is on open ditches and not even on sanitary sewerage. So I think the city of Orillia has a long way to come before it can expand. They've recently, as I've said, agreed with the township of Orillia on some annexation and that's basically sitting still.

Mr Beard: The city of Orillia is asking to build a school on the outskirts on the land that's going to be annexed and it can't service this for at least five years, is the figure that I have. They can't service the land they have; there are developments awaiting servicing. So the servicing in that area will not be at least for 10 years, in the area that they're talking about servicing.

The other thing is, they cannot give it fire protection. They still have to depend on Oro, regardless, for fire protection in that area. They do not have the proper snowplow equipment to do road grading in that area. They don't have the graders or any of the rural equipment that is needed. So why in the world would they ever go into Orillia and pay Orillia taxes to these citizens when indeed they're not going to get any benefit or indeed less benefit? As the statement says, in fire protection alone they're going to save money, the residents are.

The Chair: We're going to have to move on. Mr Waters.

Mr Waters: I want to talk about the weighted vote as part of it, because it has gone back and forth. We've had groups saying that they want it; groups that don't. My mind isn't made up as to which way it should go in any way, shape or form, so I'm waiting for an argument to come forward that's going to make my mind up for me, that we should or should not go to the weighted vote. I think the committee is going to end up making that decision tomorrow.

Mr Beard: If I may respond to that, Mr Chairman, I believe that if you have 15 or 10 councillors sitting around a table and you bring forth a proposal that is good, fair and equitable for the new township, a majority of those councillors, as yourselves, should be open-minded enough that, if it is good, you can convince a majority to vote for it. If you can't convince that

majority, being eloquent politicians as we supposedly are, then maybe you should realize that your thing is not good enough. Failing to convince your fellow councillors, or a majority thereof, you can go to the election the following year and convince the public. And if you can't convince the public, then maybe at that point you should realize that maybe your argument was wrong.

So I believe in negotiating and working together. This is what Oro and our council has done. If you can't do that, then maybe your argument is flawed and maybe you shouldn't be where you are if you can't convince enough people to vote for it, because it can't be that good then.

1430

Mr Waters: On the boundary, and I've looked at the maps and that and for some reason they just don't seem to strike home, you're talking about the area that runs down across the old Barrie Road from Bass Lake and down to the point. So Forest Home would probably be the first part that the city of Orillia would look at?

Mr Drury: I'm not too sure—

Mr Waters: That small industrial area at the bottom of the—

Mr Drury: I suppose if they're after assessment, that's where they'd look. If they're after an area for growth, they'd look at some open space.

Mr Waters: Okay. I think I have in my mind now, after hearing you talk, exactly where this section is. It was just a couple of clarifications I wanted. Thank you.

Mr McLean: Thank you for coming today. I think yesterday morning we had several delegations from the Eight Mile Point area and that part of Orillia township that is presently proposed to be part of Oro. There were a lot of people there yesterday adamantly opposed to it being transferred to Oro. I've heard on many occasions the mayor of Orillia saying that it shouldn't go to Oro, because I think he was looking at probably having it. So there was a lot of discussion with regard to that.

But the area that I want to mention is mainly the Bass Lake area. In the analysis that was made with regard to Bass Lake, it is extended easterly in order to allow for a single municipal jurisdiction in the Bass Lake watershed area. I guess at first Orillia township, I believe, wanted that Bass Lake area so that everything that would go through the North River up into Matchedash Bay and into Georgian Bay would be under one watershed. What's your reasoning and views with regard to having that part of that watershed now in Oro instead of in Orillia?

Mr Drury: I guess the way we look at it, Al—and I've brought a map along. Perhaps I'll ask my planner to hold it up, please. We looked at the watershed area of Bass Lake and not the extended area that goes to the North River. It was minimal—yes, go ahead.

Ms Chris Menzies: This grey area here is the

current watershed down near Bass Lake—

The Chair: Excuse me. I'm sorry. I just want to make sure that we're on Hansard. If you could speak into a microphone and identify yourself.

Ms Menzies: Yes. My name is Chris Menzies. I'm the planner for Oro township.

Mr McLean: Turn it around a bit so they can see it over there.

Ms Menzies: This white area shown here is Bass Lake. The current boundary of Bass Lake, the township boundary between the township of Orillia and the township of Oro, slices Bass Lake into two portions with approximately 80% of the existing Bass Lake in Oro township.

The proposal that the county has put forth would include the entire Bass Lake area as well as the entire drainage area, of which approximately 90% to 95% is in the current municipality of Oro and Medonte, all in the new amalgamated municipality of Oro-Medonte.

Mr McLean: But Bass Lake all flows into Orillia township now. It goes into the North River. There's a tributary that just goes out of Bass Lake at the west side of it, and that goes into Bass Lake, out the other side of Bass Lake, goes into the North River and up in through the township of Severn. The majority of the waterway is in the township of Severn.

Ms Menzies: That's correct, but the entire drainage basin for the lake itself is in the—

Mr McLean: That's not the drainage; that's where the springs are that feed the system.

Mr Drury: That's a drainage area. That is a drainage area, and I guess, if I may, if you're going to look at where the water flows to and you're going to draw lines and make jurisdictions on where the water flows, then we may as well just have one big municipality and do away with it.

Mr Beard: And we should get Coldwater back in ours because all of Coldwater River flows into Matchedash Bay. Perhaps we should have Matchedash Bay as well in Oro-Medonte.

Mr McLean: I wanted to give you an opportunity to explain that because it's in this.

One question I forgot to ask and I didn't get around to it, because we had a lot of discussion about it yesterday, was the boundary, the line. You made the recommendations to the county restructuring committee that you wanted this part. Did Orillia township have a chance to say that it didn't want to give it up or was it the restructuring committee that said this is going to become part of Oro?

Mr Drury: I guess I'll tell you a little story on that that happened on the county council floor during the discussions. At that time Jack Fountain was the reeve of the township of Orillia and the discussion came forward

by way of a map that Mr Fountain had produced. In the map I questioned certain colours and the jurisdictions where they would go. I said to Reeve Fountain at the time that it seems to make sense to us that if you keep the portion of Orillia township which is north of the division road, I believe it is, and we will take the portion that is south of Highway 12 into the city limits, we would eliminate the city of Orillia from having to enter into the picture and it was agreed upon at that meeting. We did recommend those lines, yes.

Mr McLean: So it would be the county restructuring committee that drew the lines?

Mr Drury: I really have no idea who drew the lines. We recommended the lines, but who really drew the lines—you'd have to ask the restructuring committee, I guess.

Mr Conway: Can I ask a question on that, because this is important, as far as I'm concerned. I really appreciate what you're telling me because I'm going to have to consider an amendment, I expect, so I want one final clarification.

For that area south of 12, I understand what you told me earlier that it may be a long time before a lot of that gets taken into the city of Orillia. I'm quite prepared to accept that may be true, although some of it might come sooner than that. The question I have to wrestle with is, in light of what you have said and what some other people have said, why would I just not leave it be? Why wouldn't I just leave it in Orillia township where it is now?

Mr Drury: Once again, I'll reiterate what we have in our brief to you, that we are servicing portions of that township now. We believe we can do a better job servicing for fire, an equal or better job servicing for roads and also that the assessment would even things out, I believe, after we lose the portion we're losing from the Hillsdale area. My understanding of the restructuring was to come about things as evenly as possible, and I think that would make it so it's not a big problem for the township of Oro-Medonte to amalgamate and assume that and lose the other on the other end.

Mr Beard: If I may also respond to that. One of the problems we get into with restructuring was the boundary drawings and who got what, basically. My understanding was the boundaries were not to be reopened or, believe me, I would have made a submission on the Hillsdale area. The population base was considered as well, to equalize the area, so they'd have a basically equal area in Oro-Medonte as in Severn so that you wouldn't have one big large municipality and one small municipality.

As far as the boundaries go, we were told always that this was never going to be reopened, that the boundaries were set and, if that was the case, then I think you'd

have everybody in here asking for boundary adjustments.

Mr Conway: On the basis of that, it would be your view that if the committee pokes its nose into boundary adjustments, we might expect a bit of a hornet's nest.

Mr Beard: In my respectful opinion, you would be opening a hornet's nest with a stick. I can tell you right now that I can justify things as to boundaries that are not in effect at this time. I wouldn't touch that with a—

Mr Conway: I've just come out of the north and I'll tell you, a lot of those townships—

The Chair: The parliamentary assistant, please.

Mr Hayes: Thank you very much for your brief. Just one quick question: The natural direction of growth now in the city of Orillia, is it to the north or west? What is happening now?

Mr Beard: It depends on where you count north and west because, actually, the county of Simcoe is laid out in a northwest-southeast situation. If you look at the map, it's not—

Mr Drury: It would be northeast, I guess.

Mr Hayes: It would be more northeast.

Mr Drury: Yes, that's some residential growth.

Mr Hayes: Okay. Thank you.

The Chair: Gentlemen, thank you.

Mr Drury: One more point I'd like to make to Member Conway. Actually, to summarize what you're asking and by this portion of Orillia township coming to Oro-Medonte township: We're going to greatly reduce the cross-boundary servicing, which we were told to look at and do. This is going to get rid of a lot of problems there—you've heard it all—fire and roads etc. We already service a great deal of that area. All drainage would then be in Oro-Medonte for that area and expansion of that will actually slice Orillia township in two, so it makes sense to leave it with Oro-Medonte as proposed. I hope it would give me enough to make a decision and not to consider the amendment.

The Chair: Thank you again very much for coming before the committee and for your submission this afternoon.

Mr Drury: Thank you for having the time to hear us.

The Chair: Thank you for the map as well, which helps us.

1440

TOWNSHIP OF ORILLIA

The Chair: Could I then call on the reeve of the township of Orillia, Mr William Gowanlock.

Mr Jim Wilson: Mr Chairman, in the interim, on a point of order, I want to add a presentation to the agenda. Members are aware that the town of New Tecumseth sent a submission to the committee dated

August 18. Given the proceedings of the committee to date it will be impossible to raise this unless a witness brings the points contained therein forward and ask that—is 4 o'clock the last one?

The Chair: We have two others; 4:30 would be the time if there's agreement from the committee to—

Mr Jim Wilson: Is there agreement, if the witnesses are able to stay that long?

The Chair: Agreed? Agreed. Okay, so the representatives who are here from New Tecumseth would, at 4:30, then—

Welcome to the committee. It's a pleasure to have you with us and please go ahead with your submission.

Mr William J. Gowanlock: To the members of the provincial Parliament, I can't say how much I appreciate you taking time out this summer in the holiday season to come and listen to us people and to our concerns. I'm deeply indebted to all of you. Thank you.

Could I ask that my council join me and, seeing that the former reeve of the township has been brought into question on several issues, is it okay if he joins as well?

The Chair: I believe he's also making a presentation later in the afternoon, but—

Mr Conway: Maybe it might be useful to put those two together, if it were possible.

The Chair: Is that agreeable to everyone? Then perhaps former Reeve Jack Fountain, I believe it is—would you come forward and we will sort of amalgamate those two.

If I could ask you, Reeve Gowanlock, if you'd be good enough just to introduce. We know some of the people there but not everyone, if you'd be good enough to introduce them for the members of the committee and for Hansard.

Mr Gowanlock: I will begin with my Deputy Reeve Ron Stevens, who is also chairman of the county restructuring committee; former Reeve Jack Fountain, township of Orillia; councillor Shirley McDougall; and councillor Gary Thiess, who was in that Eight Mile Point conversion area.

To begin with, Mr Chairman, we have a submission in your files there concerning the weighted vote. We had an emergency meeting this morning with the village of Coldwater and we determined to work out an amiable agreement. We realize how damaging a weighted vote is from our county council experience, and therefore we didn't want to create any hardship if it was possible to avoid it and we were able to work out a solution to the matter. I have 25 copies of the withdrawal of that submission here today for distribution by your clerk.

The Chair: If the clerk will distribute that—

Mr Gowanlock: Moving on then, Mr Chairman, to our second submission.

The Chair: I am sorry. Just to be clear, then, you

are withdrawing the earlier submission?

Mr Gowanlock: That's right.

The Chair: Fine.

Mr Gowanlock: Going on then to the second submission: The process of drawing new boundary lines across the county of Simcoe has been primarily a political process. Much stress has been created among local elected officials, municipal employees, citizen groups and taxpayers.

Both cities of Barrie and Orillia showed dogged determination to expand their boundaries substantially. They were so single-minded that the county council found it necessary to excuse their representatives from the county study committee in order to ensure the survival of the committee.

The township of Orillia commissioned a study (1) which projected the maximum population of the city of Orillia based on the best-known technology available for sewage treatment. The study shows that quite clearly there is no justification for any city expansion prior to the 2001 date provided in section 34 of Bill 51.

The former Minister of Municipal Affairs recognized this in a media release (2) announcing the ministry's acceptance of the county study, when he said the cities have enough land within their boundaries for more than the 20-year lifetime of the study.

The former Minister of Municipal Affairs, in the same media release, stated that the cities' concern would be addressed by establishing a joint planning authority, which has also been provided for in the bill.

The stubborn passion of the city of Orillia to expand into the surrounding townships continued relentlessly. An economic study produced by the city of Orillia ignored the effects of such an ambitious desire on its neighbours.

The study process has done substantial damage to what used to be an atmosphere of mutual respect between the city of Orillia and its rural neighbours. The township of Severn will be born from five individual municipal parts. There lies ahead a substantial challenge to organize and plan efficiently for the future. There is absolutely no justification for it to do so while under the threat of an even further, more painful, unsupported amputation.

It has been said that section 34 was put into the bill "to appease the cities" since the minister has the power to review municipal boundaries anyway. If this is the case, then why put section 34 in?

Let the towns and townships surrounding the cities and Simcoe county be introduced into the next century with a future and sense of security.

It is respectfully submitted: Remove section 34 from the draft legislation. Failing the removal of section 34 from the draft legislation, include an amendment

requiring that the minister have regard to existing negotiated boundary agreements; studies and submissions prepared by the township during the county study, and the Sewell commission policy recommendations.

That's signed by all of our council.

We have a summary on the next page. It says, the issue: potential city boundary adjustment.

Background: The County of Simcoe Act, 1993, section 34, provides for a boundary review of the cities of Barrie and Orillia before January 1, 2001.

The township of Orillia, soon to be part of the township of Severn, has already gone through a painful process of restructuring.

The township of Orillia commissioned a hydrogeologist to project the ultimate maximum population of the city of Orillia supportable by a sewage treatment facility discharging into Lake Simcoe. The study shows that a boundary adjustment prior to 2001 is unjustified.

The council of the county of Simcoe unanimously requested deletion of this section.

Former Minister of Municipal Affairs Dave Cooke acknowledged that the two cities have enough land for at least 20 years.

The final report of the commission on planning and development issued in June, 1993, contains policy recommendations providing for urban intensification and discourages extensions to built-up areas served by the public sewage and water system.

The recommendations, then, are: Remove section 34 from the draft legislation. Failing the removal of section 34 from the draft legislation, include an amendment requiring that the minister have regard to existing negotiated boundary agreements, studies and submissions prepared by the township during the county study, and the Sewell commission policy recommendations.

The pros of that will allow the township of Severn to plan peacefully for the future and will minimize expenditure of public funds on boundary disputes.

The cons will be unpopular with the council of the city of Orillia.

Now, Mr Chairman, time permitting, we would like to enter into some comments—and I appreciate your questions thus far—concerning the strip of land from number 12 highway right down to Lake Simcoe. The background on this—

1450

Mr McLean: What are you reading from, Mr Reeve? Do you have a—

Mr Gowanlock: Yes, you have it in your file.

The Chair: Okay, I just want to be clear on that. You had indicated withdrawing, but what you were

withdrawing I think was simply the request for the weighted voting, but then you were presenting the rest of the submission.

Mr Gowanlock: Is in there. Yes.

The Chair: So what you were reading is the submission you had sent us, but indicating that the weighted voting provision has been withdrawn.

Mr Gowanlock: You've got it.

The Chair: Yes. What page are you on?

Mr Gowanlock: Pages 1, 2 and 3, section 34 of Bill 51.

The Chair: So it's the first—you have just been reading from that section.

Mr Gowanlock: Yes.

The Chair: And now you're going to comment on the other issue, which is not in your brief.

Mr Gowanlock: Yes.

Mr Conway: What we need in this committee is more paper.

The Chair: Yes. We're getting confused with paper but I think we're clear now where we're at, so please go ahead.

Mr Gowanlock: Okay. On the restructuring of the county, it was my concern that county boundary negotiations would be done on the county council floor. I had to proceed by a special notice of motion to even get it on the county floor. Because of the weighted vote of the county, it was denied, myself and other municipalities, of having negotiations reopened on the county floor which would have resolved this strip of land.

Secondly, I went through the county again on a notice of motion to see if we couldn't stop the restructuring the way it was going. That too failed because of the weighted vote. The reason I did both of these things is that in seven municipalities across the county of Simcoe they took a vote. A well-worded vote was very, very simple: "Do you want restructuring or don't you?" The result of that vote across the county of Simcoe was 91% opposed to restructuring, but it slid through very quickly because of a weighted vote of the county of Simcoe.

Now, I want to get back to the area that has to do with the strip of land. Firstly, this strip of land, some 2,000 acres, for the last 20 years has been looked at by the township of Orillia and by the city of Orillia and was designated, under the Couchiching area plan, as when Orillia needed expansion, the land was there for them. That land has been frozen for almost 20 years, to the hardship of the people in the area, but the land is ready and houses can be built a few feet apart and water and sewage can be looked after, the same as lake level, and that area is designated to go to the city of Orillia when and if it needs it. We're willing to do that. Oro has no such arrangement at all; of course not.

As far as the roads are concerned that our good reeve

from Oro mentioned, all of those roads with few exceptions are paved and in excellent shape.

Fire services: Presently, we have an agreement with the township of Oro that they service the southerly portion of the Orillia township and we service the northerly portion, north and west of Bass Lake, an excellent agreement that's worked out well over the years.

On the 911 number, I realize Oro township has most of its municipality numbered, but we have 911 in place and have had for quite a while.

The environmental concerns of the area: The whole area, Orillia township as well as Oro, feeds into Bass Lake. The outlet from Bass Lake flows about one mile, certainly less than two, then enters Orillia township, flows many miles, 15 or 20, through Orillia township, on into Matchedash township, again another 8 or 10 miles into Matchedash township, comes over into Tay township, the portion we're taking over, and then enters the Coldwater River and from there the two of them enter Georgian Bay. Talk about environmental concerns; we have them as far as Bass Lake is concerned. That area must stay with Orillia township.

In summation, I first ask that you give serious consideration to letting Orillia township retain that area for the reason that we'll give it to the city when and if it needs it, and it won't disrupt all those ratepayers and have them go from here to Oro and back to the city. What a terrible situation to put anybody through.

Secondly, if that's not possible, we're asking that it go to the city of Orillia now and save these people some tremendous harassment over the next few years. Gentlemen, members of Parliament, those are my submissions.

The Chair: Would Mr Fountain wish to perhaps just add any further comments as we're joining together these presentations, and then we'll move to questions? Former Reeve Fountain.

Mr John A. Fountain: Thank you very much, Mr Chairman. I'm very pleased that we were able to put this all together now instead of waiting till later on. I must commend Reeve Gowanlock for what he has said. He not only beat me in the last election; he just took my whole speech, so perhaps what I could do is give you my final statement rather than the whole speech.

The question was asked, I believe yesterday, "Was there a gun to our heads?" I'm not sure that's the right terminology to use, but I would like to state that yes, as far as I'm concerned, there was. Orillia township had taken the attitude that we were quite prepared to look at restructuring; we were quite prepared to look at a study of our county to find out where we were, where we were going and how we should get there. But we wanted to do it based on sound principles of planning, not on the wish list of politicians.

The lines, we were told, were to be a "what if" exercise. When I asked that the lines be removed and we get back to studying the viability of Simcoe county, I was told it could not be done. Why? Population and tax figures were being compiled based on the new lines. I began to realize we were no longer studying; we were restructuring. When I questioned this, I was told if we didn't do it, the government would. This became a cracked record around Simcoe county. If I persisted, I was reminded, "Look what happened to south Simcoe." Warden Harry Adams said it, Warden Don Bell said it and I can assure you Warden Nancy Keefe said it. Whether it was a real threat or not, the perception was there.

Bass Lake became a very interesting area. Criterion 3 of the plan suggested that where possible a watershed should be in one municipality to ensure that the easiest approach may be followed in ensuring the quality of water and other environmental aspects of the watershed. Bass Lake is a shallow lake—you drove by it going towards Midland—surrounded by cottages and homes, which makes it quite a sensitive area and it can be easily polluted. It's a shallow lake and easily polluted.

In its first proposal of adjusting borders, Oro township proposed that Bass Lake be entirely within its borders. No reason was given, other than it was part of two municipalities and this proposal would respond to criterion 3. The township of Orillia responded by producing a map. That's the large one on your desks there. I coloured all that in myself. You could go into more detail and put more lines on there, but you can see where the water lines are. But the main streams, of course, are Silver Creek and the North River.

Also, there's a text with it describing, in our presentation—it's in this one here on the first page. Do you want me to read it now, Mr Chairman?

Mr McLean: Mr Chairman, if we do the two presentations now, we might as well do it.

The Chair: Please, put on the record whatever it is you wish to do so we have it all on the table and then we can deal with it all together. So, what you are reading from is this?

1500

Mr Fountain: Yes.

The Chair: If you'd just indicate the page.

Mr Fountain: Page 2. This was presented to the county of Simcoe study committee February 15, 1991, after the original submission by Oro. The map indicates that the Bass Lake area west of Highway 12 would become part of the township of Oro. The rationale provided by your committee is that criterion 3 states that, "Small lakes or other sensitive natural features may be better protected in one municipal jurisdiction."

If one accepts the concept that small lakes and wetlands should, where possible, be kept under a single

jurisdiction, then the area of the watershed influence should also be considered. Bass Lake is the headwater of the North River, which merges with Silver Creek and then drains through Orillia and Matchedash townships to Matchedash Bay. As the committee is aware, Matchedash Bay is designated as a natural area of provincial significance by the Ministry of Natural Resources. There's a map on the back. I'm getting mixed up with paper too.

The Chair: If I may, just for the record, you were reading from page 1.

Mr Fountain: I'm on the back page of that. This is from the study. Wait; we'll get through to it. What I'm looking for is this here. It's a study, A Strategy for Restoring the Severn Sound Ecosystem and Delisting Severn Sound as an Area of Concern, prepared by the Severn Sound RAP Team in consultation with the public advisory committee. It involves Environment Canada, the Ontario Ministry of Environment and Energy, the Ontario Ministry of Natural Resources, the Ontario Ministry of Agriculture and Food and the Department of Fisheries and Oceans.

You see by the map that the whole of the Bass Lake-North River watershed is within one line, and all is within Orillia township. I think Mr Drury suggested that you'd need to take in the whole of Ontario to cover all of these watersheds. However, I think it is significant that we realize that this is the headwater, as I think Mr McLean pointed out, of this drainage area, and it is a very sensitive area. It goes up into Matchedash Bay. I'm sure you're familiar with the Wye Marsh, which isn't far away. This is going to become part of a conservation area.

In the mapping of the green draft report, the committee agreed with the proposal by the township. A map drawn up by five provincial and federal ministries shows the North River watershed and Bass Lake, all within the township of Orillia.

I go on here to what happened after the first report came out. It was proposed that the new lines be accepted and the townships began to panic. "Let's get as much out of this as we can." The south took the attitude, "It happened to us; it can happen to you next." We were confronted with people from the south who had already been restructured and they wanted it to happen to the north.

What we are upset with, and this land in particular, was that the green report—and I believe you have copies of it; they were out yesterday—indicated that Bass Lake alone would be moved into Orillia township; there would be no other territory. Most of that land would consist of swamp, along with Big Cedar Estates, but a considerable amount of it was swamp. There was no gain, really, for Orillia township, except to fit into criterion 3 according to the county study. Reluctantly, Orillia township said that we would accept that; if this

whole thing was going to go, we were prepared to accept that. Then behind closed doors, as I say here, they attacked us.

Not only did the south go to Oro, but Washego, a community of about 1,000 people, went to Rama and a large piece to the city of Orillia. Orillia at that time wasn't even on the committee. There was no agreement with the cities to give them land, and yet this was done. Orillia responded to that by attempting to meet with the committee. The decision to break up Orillia township was done in camera.

I went to the warden and every member of the committee and even to government representatives. Not only would they not meet with me as a committee; they would not tell me why they made the decision. I even offered to take one committee member with me in a canoe to show which way the water ran. He declined.

Orillia township has never agreed with this restructuring because it's a completely unprofessional procedure that took place. But most disturbing are the concerns of the Bass Lake incident. It was done behind closed doors. I've never been given an opportunity to rebut it to committee. I was allowed on the floor along with another 125 proposals. You can imagine how thrilled they were listening to me plead for the Bass Lake area. Also, the question came up, "Why is Fountain being allowed to go to the front and none of the rest of us are?" That didn't help my case either. We have never been told who drew the line or why.

I believe if these questions cannot be answered, the land ceded to Oro township by the county of Simcoe should be returned to the township of Orillia.

The Chair: I recognize we've combined two presentations here, but—

Mr Fountain: Sorry about that.

The Chair: That's quite all right, but as Chair, I'm also conscious of our overall time constraint. None the less, this is an issue that we have been seized of, and I want to ensure that questions can be asked. But if I could just ask members to be as specific and short as possible.

Mr Waters: I have a question, because it will be a new experience for Mr McLean and me, I gather, if this goes forward; that is, that we'll share into my township as your representative—or representatives is what we will have here, because at this point in time, Al represents Orillia township. Eventually, once you step into Matchedash and Tay, you're into my country. I represent pretty much the entire Severn Sound other than a little tip that we'll let—you know, he's got to get his foot in the water somewhere over there.

I'm curious. How do you think that's going to work? Obviously you've got a long-time relationship with Al as a council. How is this going to work for you?

Mr Fountain: How will it affect us, dealing with both of you?

Mr Waters: Yes.

Mr Fountain: I have no difficulty.

Mr Waters: So you don't see that that's going to create any problems or anything for you. Okay.

Mr Fountain: I don't see why it should. You both look like honest, fair men.

Mr Waters: Well, you know, I have a bit more hair on my head than Al, but he's got a few more years in Queen's Park than I have. So probably by the time I get there—

Mr Conway: And more money than all the rest of us have.

Mr Waters: By the way, I also have a buffer zone with Mr Conway. It's called Algonquin Park. Mine's a bit bigger than most.

The council chambers: Your council chambers are—

Mr Gowanlock: Near the city of Orillia boundary, the city of Orillia and Orillia township: just into Orillia township, on West Street.

Mr Waters: Okay, on West Street. That's actually just sort of for the record, because it leads to the question, and that is: I've been to the other council chambers. Obviously you will be using your council chambers for the new township.

Mr Gowanlock: That's correct, yes.

Mr Waters: Okay. I know there's been some concern raised by Matchedash about a connecting road, because at this point in time there are no connecting roads in the northern part of your townships, separate townships and jointly. I wouldn't mind hearing your opinion, because I know they've raised that as an issue.
1510

Mr Gowanlock: You have a very valid point. We do need a connecting road, primarily on West Street right through into Matchedash, which would lead to the Severn River and into Matchedash. It's a very, very urgent matter. I guess you all know how funds are, but that is one of the prime concerns.

Mr Waters: I just wanted to go into the Bass Lake area a little bit. On the large map that you presented to us, I gather the one to the left of the lake is a tributary stream into Bass Lake.

Mr Gowanlock: Yes, immediately to—

Mr Waters: So the catchment basin for Bass Lake would run over, what, about five concessions?

Mr Fountain: Into Oro, you mean?

Mr Waters: Yes.

Mr Fountain: That one tributary.

Mr Waters: But all of the outfall runs through Orillia township, Matchedash and then into Severn Sound.

Mr Fountain: I believe someone assessed that about

95%, without Bass Lake, would be part of Orillia township.

Mr Eddy: Thank you for your presentation. I noticed in this letter from the township's planners signed by David Scott, planning and zoning administrator, and I think you repeated the same thing, the first paragraph on page 3, that it was a closed meeting of the study committee that decided the boundaries, and not all municipalities were present or represented on that committee at that time. Is that the case? I just want to be very, very clear on that.

Mr Fountain: To the best of my knowledge, no members of council, just the committee, made these.

Mr Eddy: Well, the committee is made up of members of council.

Mr Fountain: Oh, I see. Yes.

Mr Eddy: But not all municipalities, of course, had a representative, because it would be so large. So it was the study committee that put the lines on the map, and then that came to county council.

Mr Fountain: As far as I know.

Mr Eddy: And you were not allowed to open that up.

Mr Fountain: They refused to meet with me afterwards.

I think too, if I may, it's very significant that if there had been minor adjustments, if they'd moved one concession or two concessions or something like this—but if you realize that in the beginning, the green report gave us Bass Lake, and that was really not a very great, significant thing, but it was effective as far as criterion 3 was concerned. After this meeting and the grey report, the final report, came out, suddenly we didn't have Washago. A massive piece was being given to Orillia. We were decimated. They destroyed it.

All along, one of the things we had said was: "If you are going to go through with this thing, leave Orillia township as a unit. Move it wherever you want, but leave it as a unit that functions."

Mr Eddy: And no reasons given. The lines were changed and you weren't given reasons.

Mr Fountain: Not to the best of my knowledge. Never to me was there ever any reason given. If somebody said that Reeve Drury was better looking than I was, I'd accept that, but none of this was ever—

Mr Eddy: Mr Chair, there is a point of clarification I'd like to ask the parliamentary assistant. In the case of the regional municipalities in this province, some 13, no boundary change can be made to an area municipality of a region unless both municipalities agree, and that has happened. It happened between, I believe, Mississauga and Oakville, and Tillsonburg and Norfolk township. There have been a very few. Is this bill similar? Once these changes are made, they become

somewhat sacrosanct. They're similar to the region, or—I'll leave that with you if you don't want to answer now.

Mr Hayes: I'll refer it to Mr Griggs.

Mr Eddy: I just want to be clear on that.

Mr Griggs: The municipalities would still be able to apply under the Municipal Boundary Negotiations Act in the future to alter boundaries.

Mr Eddy: Two affected municipalities would be able to agree. Would one be able to apply? Would this fall under the boundary negotiations act at the county still, even though this bill is fact?

Mr Griggs: Yes, it would.

Mr Eddy: Thank you.

Mr Conway: There are two issues for me that are particularly relative to this submission and the situation of Orillia township, it seems to me. One of them has to do with the configuration of your new municipality. I am more and more persuaded that you've made a very compelling argument around the Bass Lake watershed. We've got enough maps here now, and my friend McLean, who is a good fisherman and who lives around here, is my consultant. He seems to know, understandably, a lot of it. I think you've made a good case there as far as I'm concerned.

The problems I have now are at the other end. Bob Drury was here and he's got a pretty strong brief. By the way, I've just come out of the north, and I'll tell you, I won't soon forget the submission by the reeve of the township of Tay. Boy, I tell you, he was pretty powerful yesterday, and I'm quite sympathetic to what happened to him.

I notice that you've got Coldwater and you've got a bite out of Tay, so you haven't been completely—I suppose that's the new township of Severn. You might argue that that's as much an expanded Matchedash as anything to do with Orillia township. You certainly lost on the bottom end, but you've gained as part of the new township of Severn. You've got some expanded territory up in the northwest, would that be?

Mr Fountain: Yes.

Mr Conway: The previous group was here and they make an argument, and I want you to comment on it if you could. On the roads account, Mr Drury and his colleagues said that this new proposal reduces the need for cross-boundary service agreements. You've touched on that, I think, a bit. Did I understand you to say that the servicing agreement you had was that they did the bottom piece for you and you did a top piece in Oro township for them?

Mr Gowanlock: That's correct.

Mr Conway: That was in Oro.

Mr Fountain: This is something that goes on fairly regularly between municipalities: You do the top end

and we'll do the bottom end of its boundary roads.

Mr Conway: So it does in my area as well. They argue that the township of Oro currently provides fire protection services to 75% of south Orillia township.

The one that I thought was key to me was assessment. You may have heard their submission, and if you haven't, I won't take you through it but you might want to look at it. They say that if as a result of the final determination of the boundary area for the new municipality, the township of Medonte is to lose the Hillsdale-Orr Lake area to the new township of Springwater—you know, if we lose something, we've got to get some consideration on the other side. The consideration on the other side appears to be—somebody called it the "sirloin tip" of Orillia.

Mr Fountain: I did that yesterday.

My response to that is, are we going to disrupt the people of this area in Orillia township, who, by the way, if you remember the presentation that was made yesterday, voted almost unanimously—600 people or something like that voted to leave them alone, and we know that. We filled the balcony down at county council by these people objecting to it. To satisfy the monetary demands of Oro, are we to disrupt these people? I can assure you the tax base in Ontario right now has disrupted enough people. Are we going to add to it with this?

Mr Gowanlock: May I help to answer the question? The township of Oro primarily is staying intact. It is a well-managed, good financial based municipality, the same as mine. They aren't losing anything. They never had this assessment. They won't miss it. They can't miss it because they have what they have. They are bringing Medonte in. True, they're not bringing all of it in, but it has good assessment around the Horseshoe Valley. Both of them have large developments either side of Horseshoe Valley Road. They come in as a very lucrative municipality joined together. Don't give us the idea that they're losing something; they're not. They're coming in very lucrative. They have 16,000 people in this new municipality; we only have 11,000. They have two good units coming together; we take on two very, very poor municipalities. Admittedly, we're in good shape. If we have to take on two to help this thing work, we're willing to do that, but don't take further away from us, please.

1520

Mr Fountain: The fire protection is by mutual aid; we have that covered. Orillia township has one of the most modern fire departments in the county, and if more equipment is needed, it will be there.

Mr McLean: You've had some good Reeves in Oro, as you're well aware. If my memory serves me right, yesterday when the reeve of Tay was making his presentation there apparently was a meeting between

your people and the Tay group with regard to the easterly boundary of Tay. The discussion was around they wanted that part back and I think Severn had indicated, "We'll give that back to you if we can get what was taken from us and given to Oro." Is that correct?

The Chair: Sorry, Reeve, just for the record, we know your head nodded, but Hansard can't pick that up.

Mr Gowanlock: We had a meeting with them to explain it in detail. Matchedash and Coldwater are the two areas affected in that area, and they weren't going to compromise on that. I should clear the record on that. They carry the weighted votes, their 10 votes to our five.

Mr McLean: But Matchedash feels that should be in part of Tay now, is that right, because of the fact it's in that one watershed? I mean Matchedash feels that the boundary that's drawn there is right?

Mr Gowanlock: They'll be speaking later and they could address that one for you.

Mr McLean: But in your opinion, as reeve of the township, with the new part being amalgamated, would you anticipate that that boundary should stay where it is in the planning?

Mr Gowanlock: Yes.

Mr McLean: The other question I have then is with regard to Bass Lake. It says:

"The final draft report established that, based on the significance of the Bass Lake, North River, Matchedash Bay watershed, the majority of it should be within the municipality of the township of Orillia-Matchedash-Coldwater. It was the committee's recommendation in the final draft report that all of Bass Lake should be in the municipality of Orillia township, but upon the release of the final draft in late May of 1991, municipalities and the public were requested to comment either through open forum meetings or written submissions.

"The final open forum meeting was held on June 20, 1991. On the 20th and on the 28th, the final study report was released to county council and the study committee met in camera to render its final decision on boundary adjustments. This was the only time that committee would not allow the public to listen to the discussions leading to a decision and the committee's rationale for this position was that its decision should not be made public until county council members received the report."

In other words, what input did you have into that change of that final study report?

Mr Fountain: None. Absolutely none.

Mr McLean: Did you request some input into that report?

Mr Fountain: I went to the chairman, I went to every member of the committee and I even went to the

government representatives and asked to meet them as a committee. They not only refused to meet me as a committee but refused to tell me who drew these lines and exactly why.

Mr McLean: And to this day do you know who drew the lines?

Mr Fountain: I would like to know. I would like this committee to be able to tell me. If somebody can justify the drawing of those lines, I certainly would accept it. But that alone I believe is wrong. I think we have indicated that according to the criteria of the county itself, that lake should be in Orillia township, and I hope we have indicated in other ways that it should be, but above all else, no one has indicated why it should move.

The Chair: I'm sorry—

Mr McLean: Just one final one. We had a situation yesterday in Midland whereby Penetanguishene had an area that they felt was qualified to be, and it was, in their jurisdiction. When the final report came out, it was in Midland, and they didn't know who changed the line.

The Chair: The parliamentary assistant.

Mr Hayes: Thank you for your presentation. But you have made some fairly strong statements about county council and the study committee. I know you state that they met in camera, but in fact did the study committee not make a presentation in front of county council and did they not vote on each section at a time on county council?

Mr Fountain: Pardon?

Mr Hayes: Then in fact is it true, though, that your municipality also presented an amendment to this and it was voted on and defeated? You're saying you haven't had any input. But we're being told that this is the process that was followed, the procedure that was followed, and yet you're saying that it wasn't.

Mr Fountain: We had input from the floor, but we did not have input at the time. The drawing of the lines was done arbitrarily. My understanding was that lines would be by agreement of the municipalities involved. In fact I think this came up for discussion here a short while ago. This was never discussed with us. I don't know, but there's a great possibility it wasn't even discussed with Oro.

Mr Hayes: You're saying it wasn't. Well, I think what you're talking about, my understanding is that they made the presentation, and then the bottom line is that the county and then the province, of course, in turn agreed that there would not be any boundary changes unless the municipalities that were affected could agree to that, changes to the proposed boundaries.

Mr Fountain: Yes, that would be true. I would like to point out that there would be this argument that since the county voted on it, it shouldn't be changed. I'm sure we can't accept such a thing in a democratic society.

Surely there are people here who would—

Mr Hayes: To correct you on that, I think it can be changed through an agreement with the municipalities that are involved. Then that's where it's at.

Mr Conway: But surely the problem that we're running into here—the parliamentary assistant makes a very good point. I think the difficulty that I've got as a committee member in the last couple of days, and Mr McLean just made the point a moment ago, is that I keep running into people—and I know the reeve of Oro would love it; we probably should get him back up here at some point—I keep running into these situations where something seems to have been agreed to, then something else happens someplace and the line moves. This seems to be a recurring—

Mr Hayes: I think, in all fairness to the people, I guess, on that committee—I don't even know any of them, as a matter of fact—the fact of the matter is I think it's just like this draft. I think it's like any other kind of document that committee would put together and send out for public consultation—I think this is what happened—and also to the county council. It's like I think any kind of legislation, whether it be a provincial government or federal government. They might prepare a draft of a piece of legislation and then that would come back and be voted on or amended or whatever the case, and then as a result of that they come back to vote on the final study. Is that correct?

The Chair: Our next witness is the warden of the county, and it seems to me the issue is clear. Again, just as your Chair, I'm conscious of our time problem.

Mr Hayes: One other thing.

The Chair: Okay.

Mr Hayes: I've probably done something more than what the other members in this room have, I've camped at Bass Lake Provincial Park several times, including this year. It's a nice spot, guys.

Mr Conway: But before we move off this point, this is really a central issue for me. I don't mean to be difficult, but you see, the parliamentary assistant's made a good point here and I'm really struggling, because I know tomorrow we're going to have to do clause-by-clause and we're going to do some amendments.

I have to tell you—I want to be quite honest with everybody in this room—I've heard a lot of very interesting evidence. Now, it may be incomplete, but I'm caught. I'm a juror here, and all I can do is make decisions on the basis of what I'm hearing. There may be a whole bunch of people who've got interesting, compelling arguments who aren't here for whatever reason, and that's just going to be too bad for little old Conway, but I'm telling you, I'm hearing some things around a couple of these boundary issues that give me a lot of cause to consider an amendment.

On the other hand, if I do that—and I feel completely

empowered to do that as a member of the Legislature. That's my job. But I don't want to be a total jerk. I don't want people like my friend the mayor of Oro to go out of here and think: "Well, those jerks from Queen's Park. Didn't they understand the way this deal was supposed to work?"

So I just want to be clear now, while people are around, so that when I get to Toronto tomorrow—and I may be doing some things in good faith on the basis of what I have heard, if you know what I mean.

1530

The Chair: Mr Wilson, do you have just a brief comment?

Mr Jim Wilson: No, I think Mr Conway's dug a deep enough ditch there.

Mr Conway: I don't consider it a ditch at all.

Mr Jim Wilson: I don't need to give my usual lecture about whether or not we're going to be allowed boundary changes or not.

The Chair: I want to thank Reeve Gowanlock and former Reeve Fountain and the other members of your delegation for coming and for helping us try to work through some of these issues. Thank you again for coming.

COUNTY OF SIMCOE

The Chair: If I could then call our next witness, the warden of Simcoe county, Mr Ross Hastings.

Mr Ross Hastings: Thank you, Mr Chairman.

The Chair: Mr Hastings, welcome to the committee. As you can perhaps see, there are lots of interesting elements to this and we're glad to have you before the committee. If you would go ahead with your presentation, then we'll move to questions.

Mr Hastings: Maybe I'm fortunate I was not the warden at the time this all took place. I'm glad to see that Ron's up and going this morning and raring to go. I don't know how late he stayed last night, but if he didn't stay, he missed some good entertainment.

Mr Eddy: No, I wasn't.

Mr Hastings: It was very good.

Mr Chairman, members of the committee, my name is Ross Hastings and I'm warden of the county of Simcoe. I'm pleased to have this opportunity to share with you some of my observations regarding this most important initiative.

I would like to thank the committee for travelling to our part of the province to hear submissions on Bill 51. I recognize that the summer recess creates a unique opportunity for committee hearings to be held away from Queen's Park. Given the nature of this legislation, I think it is entirely fitting that the hearings be held in Simcoe county, because it's a very important issue to all of us in Simcoe county. Your presence here today suggests that you agree with this principle. Public

hearings on any piece of legislation create a unique opportunity for individuals to raise their own concerns regarding the province's intended direction on any issue. Bill 51 is no exception. I'm certain in the last two and a half days you have heard some very detailed and thought-provoking submissions from individuals who have concern for the impact of this legislation on their municipalities and indeed on their lives. No piece of legislation is perfect, and that is why this process of committee hearings is so important. I want to encourage you to recognize the specific concerns of these individuals and even to recommend changes to the legislation where change is appropriate. At the same time, I want to caution the committee not to contemplate any change that would undermine the principles of county reform in Simcoe.

Unlike other recent examples of restructuring, the process that has gone on in Simcoe belongs to us. It was county-initiated, it was county agreed to, even though it was not 100% agreement and that's been a very difficult situation for a lot of us. I think some of you probably know I come from Tiny township, which has had its share of problems on the restructuring. I did not bury my head in the sand. I wanted to be a part of it. I'm not totally happy, I don't think anybody's totally happy, with restructuring, but I think what I've heard at the AMO conference in the last couple of days is that we want to be in there taking part. If we aren't, someone's going to do it for us, especially on environmental issues.

The province watched the county work its way through a long and painful study process, and it was painful. I think I've heard from two previous people, and it's been very painful for both of them. Once the recommendations of the study report were dealt with by county council, the provincial government made a commitment to provide the legislation framework for the county's findings. Bill 51 represents this commitment and, as such, should be allowed to proceed through the Legislature without changes to its overall intent.

Your committee has an important role in ensuring the progress of Bill 51 through the Legislature. I recognize that you have a challenging task before you. I am, however, confident that after today you will leave here with a better understanding of the process that has brought the county of Simcoe to the brink of this major restructuring. I would ask that you uphold the integrity of this process by ensuring a swift passage of this important legislation.

I think that you're all aware I wasn't able to attend the sessions Monday and Tuesday. There were a number of issues that were agreed to on the floor. I hope these will be taken into consideration. One was that I think either two or three municipalities want to remain as one ward. My own municipality of Tiny is one of those—

Wasaga Beach and I think Collingwood. I'm not sure if there have been some changes in that or not. I hope the committee would look at those and look at them favourably. I think that was something that was agreed to on the floor so it is a county initiative.

There are also some minor boundary changes, I understand, between different municipalities and I think, as it was pointed out, if both municipalities agree, those were to be taken care of. I'm not sure we're going to get agreement with the two municipalities here today, but I hope they could sit down and come up with something they could both live with and that you people could support in the end.

At this time, I'd like to thank you for the opportunity of appearing before you today and if, after questions, there's a moment left I would just like to make a couple of comments on behalf of my own municipality and myself.

The Chair: Thank you very much. I will call you warden in this part of the presentation. We have a number of questions. We'll begin with Mr Wessinger.

Mr Wessinger: Thank you very much for your presentation. I'm going to ask a question that you may not be able to answer and it may have to end up that the staff will have to answer it. Maybe I shouldn't ask it, because there's a concern, I think, out there that this whole restructuring was purely a political process, that it didn't have planning input into it and that some of the decisions made were purely political with no planning basis. I'd like you to comment on that in general and, specifically what I'm interested in—as I think we are here today to consider the report of the county restructuring study. We're getting presentations made about why certain changes were made in boundaries.

I think most of us would agree that we all respect the concept of the county doing the restructuring, but we want to be reassured. I think all of us may want to be reassured that the decisions made were based on some rationale. That doesn't necessarily mean we all have to agree with the rationale of the county and I think all of us again would agree that we shouldn't be looking at a boundary change, that we'd do something different. I think, really, we have to look at it and determine, was there a good reason for making that decision and whether we agree with it or disagree with it. I want you to tell me, was there expert advice, planning advice, in particular with respect to this whole question of the section of the township of Orillia south of the Bass Lake area and the Bass Lake area? Did you have any planning advice with respect to that matter? I don't know what that advice was, and probably you can't provide us with it at the moment, but could you tell me that?

Mr Hastings: I guess, Mr Wessinger, as I said before, it was maybe fortunate I was not involved as warden at that time or sitting on the study committee,

so I really can't answer that question as to what advice they did have. I did attend some of the sessions and there was input from both municipalities. I think at that time the city of Orillia was still in when they first started, but I really can't give you a true answer on that.

Mr Wessenger: Was there a planner or planners working with the county restructuring committee?

Mr Hastings: At that time the county had no planner of its own. The municipalities had planners and there might have been a Municipal Affairs planner up there; I can't be sure of that.

Mr Wessenger: Perhaps, maybe, we could get clarification of the role of the ministry with respect to overall planning with this study.

Mr Griggs: I'm not sure whether there was a professional planner involved advising the study committee. However, there were provincial staff who were provided in all the county studies to advise the committee, provide advice on provincial policies, on the impacts and so on, to conduct impact analysis and to provide advice.

I should also point out that the study committee operated under guiding principles that outlined the rationale that could be used for various boundary changes. In the final report that was put before county council, each of the recommendations included text that explained the rationale for the proposed changes.

Mr Wessenger: Could I ask the warden to just confirm that, in this particular case of the Oro-Orillia boundary situation, the decision was based on what you considered the best planning decision?

Mr Hastings: Here again, Mr Wessenger, I don't think I'm in a position to answer that. I was not in on the county study and committee at that time. I'm not sure how they based their whole ideas on that. I was aware that it was in the official plan of Orillia township that it was to go to Orillia if and when they needed it, but that's as far as I can answer what was involved there.

1540

Mr Jim Wilson: Thank you, your worship, for your remarks. I have, just sort of off the top of my head, asked legislative counsel of Queen's Park to prepare a few amendments and I just want to pass them by you. I think most of them are minor in nature, but I just want to know if you know of any reasons why there should be strong objections voiced.

This morning, the new municipality of Clearview asked that there's a small parcel of land, a triangular parcel of land located just below the new proposed Highway 26, which veers off the current Highway 26 over at Collingwood—and I forget how many acres exactly, but they've asked that that small triangular piece—and from looking at a map and knowing the particular piece of property, the committee, at least on

this side of the table, couldn't understand why that continues to be in Wasaga Beach and is not included as part of Nottawasaga township, Clearview. So I'm looking at that. You may want to comment on it.

With respect to New Tecumseth—and we've asked that they make a presentation a little later this afternoon—the long-standing issue—and I know it's controversial—with Bradford West Gwillimbury, but moving the easterly boundary of New Tecumseth back to where it was historically, and that's down the centre of Highway 27 for the most part.

I've a number of reasons for that. The town is once again requesting that be done, particularly in light of the fact that the principle that once was used—and it is principle number 6, I think, in the green book—which talks about roads should not be used as boundaries, seems to have been violated, in my opinion, in a number of cases in the new restructuring. So given that, and given the way you look at the map now, it doesn't make any sense to me that we should continue to have the easterly boundary of New Tecumseth running two lots west of the current Highway 27 and in fact splitting a number of properties. I still have complaints from those property owners.

That's one amendment we're considering; also a minor change to the boundary between Adjala and New Tecumseth. You may be aware of that. It's sort of correcting, I think, an oversight.

No ward system, and you mentioned this in your remarks, for Collingwood; no ward system for Wasaga Beach. There was agreement, I understand, on the Wasaga Beach question with the county. Was there agreement with respect to the Collingwood question?

Mr Hastings: I'm not sure on the Collingwood one. I know that Wasaga and Tiny both came before the floor and I think Collingwood might have been at the last meeting. That could be checked out.

The Chair: Mr Wilson, just for clarification, I think the ministry might be able to give you the answer on—

Mr Jim Wilson: On that one?

Mr Griggs: Yes. It's my understanding that county council did pass a resolution supporting continuation of elections at large in Collingwood.

Mr Jim Wilson: Also?

Mr Griggs: Yes.

Mr Jim Wilson: Okay, that's good. The final one that comes to mind, as I jotted them down here—and like Mr Conway said, we'll be spending all evening going through the mounds of paper we have—there are some minor changes to the composition of the hydro-electric commission in Clearview. Off the top of your head, does any of this present problems? I would think the big one is the New Tecumseth line.

Mr Hastings: I would think that as long as the local

municipalities are reasonably happy, that's the basic thing that we're trying to do and the hydro-electric, we don't have one in our own municipality so I've had no experience with that at all.

Mr Jim Wilson: My problem is, as you can well imagine with such a short time frame, a limited number of people were actually able to make presentations to this committee. It's now Queen's Park legislation and I've said many times, people aren't going to pick this up in a couple of years and say it was Mr Hastings's legislation. They're going to say it was Jim Wilson and Al McLean and Queen's Park, as Bill 51. So we want to try to get it as right as possible. We're going to be essentially in isolation tomorrow doing clause-by-clause and, as Mr Conway has said, we won't have perhaps the full picture of what deals were made.

In particular with the Highway 27 one, the problem that I think we have is Bradford West Gwillimbury doesn't want to discuss it. So what do you do if somebody doesn't want to discuss it and never wants to discuss it? My opinion, and I will put this on the public record, is that was a political line. The Liberals were in power at that time. They wanted—and why one municipality got both Highway 11 as a major corridor and Highway 27 as a major corridor. The only answer that's come to me, via the back rooms, is that there was a Liberal member over there and he said, "Let's draw the line two lots west of the highway."

Do you have any objection personally, then—because I guess you can't speak on behalf of the entire council—to having two municipalities share development along Highway 27?

Mr Hastings: I'm aware of trying not to have roads as a boundary and I think it's maybe more critical when you've got rural roads than it is a highway. The highways are looked after, unless that's part of what might be turned back to the municipalities. A highway's a little different. It's looked after by the province, so you don't have two—

Mr Jim Wilson: You don't have that split jurisdiction.

Mr Hastings: You don't have the split that way but it does create different types of development. You could have water services on one side and not on the other, and it creates an unfair situation that way. But my personal opinion—if it's a highway I don't have a serious problem, but if it is a boundary road between two townships, it does create problems.

Mr Jim Wilson: Okay, thank you.

The Chair: Mr Griggs just had one clarification.

Mr Griggs: I just wanted to point out one of the study committee's guiding principles, that existing roads other than access-controlled provincial highways are not considered to be good municipal boundaries. There was that exception made for controlled-access highways

versus county roads, for example.

Mr Hastings: I think that did come up. I wasn't aware at the start it was basically highways.

Mr Jim Wilson: But Highway 27 there, is that a controlled access?

Mr Waters: No.

Mr Hastings: I think you're talking about 400-series highways.

Mr Jim Wilson: Normally, talking about controlled access is whether or not you can get an access off it now.

Mr Waters: The 400 series is controlled access.

Mr Jim Wilson: No. You've got controlled access along Highway 90 between the beach and Collingwood.

Mr McLean: Anywhere between Highway 12 and Orillia—

Mr Jim Wilson: You can't get an entrance. You can't get an entrance off Highway 89 here.

Mr Conway: You just can't cross the barrier.

Mr Jim Wilson: No, no, it's not a barrier; it's controlled access. Could we check that?

Mr Waters: Maybe we should get clarification on that.

The Chair: If we could move on then.

Mr Eddy: The Public Transportation and Highway Improvement Act allows any municipal jurisdiction to declare a road a limited-access road in order to prevent access to it. They're not very common but they are available.

Mr Warden, I appreciate your presentation. Thank you for being here. I know your council's had a great deal of extra work taking on this tremendous project and there are very few councils, if any, other than the county of Oxford that have undertaken such a tremendous undertaking and I'm aware of some of the reasons for doing that.

This rule that no line can now be changed unless both municipalities affected agree—I can support that, and very strongly, provided there was agreement on the line to start with. Now I think what's come out—it seems to us that there were some lines and they may have been preliminary discussion lines. That's quite possible and probably they were, but then in an in-camera meeting of the study committee—and I know the study committee will be making a presentation—some lines were changed for the final report which came to county council. My view is, it would have been the way to go when lines are changed to have those municipalities affected in a room, present it to them and let them discuss it and come to some agreement and, of course, we wouldn't have had much of a job, maybe, right today.

Was there an attempt to do that and do you think

that's what should have been done? It's a simple approach I have and I think it would have helped considerably at this stage. Was that done, to your knowledge, or should it have been done, do you feel?

Mr Hastings: I would have to probably agree with you that it should have been done. I think there was a lot of hostility on the floor. I came from a municipality where my counterpart wouldn't even talk about it, let alone sit in a room. That makes it very difficult if you get a situation like that on either side, or have one on each side who doesn't want to participate. I think that's important and I've taken a lot of flak over it.

I believe in the restructuring. I think in the long term it will be better. We're certainly hurting. I mean, we're losing, but we're fortunate; we're still just the township of Tiny. I think what you're raising, and I hope in future restructuring that a criterion goes out with them that will pick up some of the problems in areas we've had concern on.

Mr Eddy: Yes, that would make it very difficult where one or other wouldn't talk. Thank you.

Mr McLean: Mr Wessinger asked a question with regard to when you amalgamate a couple of municipalities there's usually some planning that's gone on, or there's something been there that would make the two of them fit in. It's been brought to my attention and some others with regard to the reason why Adjala and Tosoronto were put into one unit. What is so great about those two that they would fit as a boundary when you look at Camp Borden, you look at Essa? I understand that Tosoronto was with Essa to start with.

1550

Mr Hastings: I'm not totally sure of that, Mr McLean. There are a lot of scenarios that came out. I think there were four or five for our own municipality. There were a lot thrown around and then they finally came down to some final scenarios which in some cases people were satisfied and in some they weren't satisfied.

Mr McLean: I guess the other question I have is: A lot of the municipalities had a ballot on the last election, and 85% to 95% of the people in each municipality they had that ballot on voted against restructuring. If every municipality had a ballot, would you think that would have made a difference to the progress of the restructuring committee?

Mr Hastings: I'm not sure. I guess I'm one of those ones who look at south Simcoe and what happened there. I felt very strongly that we should be trying to work together to come up with something that was livable with everybody. Whether that would have come up down the road if we'd done nothing, I'm not sure. I know if you put it on a ballot, it's like asking somebody, "Do you want to pay more money?" They may want to have what you want to get the extra money for but they don't want to pay for it. It's unfortunate, but it

does come out that way.

The Chair: Warden, you wanted to shift hats at the end and be reeve for a moment, and so we can all watch the hats shift. Now, as reeve of Tiny township, you said there were a couple of issues you wanted to—

Mr Hastings: Thank you very much.

Mr Conway: Before he does that, maybe this is a bridge. I'd like to just beg the indulgence of the committee to ask a question about your neighbour Tay. One of the things that troubles me about what I heard yesterday is that in all of this restructuring, we've got one township, I think, that is smaller and poorer, and that surely violates one of the things that you'd expect restructuring to deal with. Now as you move into your—

Mr McLean: Tiny—

Mr Conway: Tiny, that's right. Maybe that's the bridge into—

Mr Jim Wilson: And actually Tay township isn't self-sufficient.

Mr Conway: All right, so perhaps—

The Chair: Perhaps if you would go ahead with your notes on Tiny township, that may help us deal with some of that.

Mr Hastings: If I could make one comment about what was said about Tay township, they are going to be in a position where they will have full services in two municipalities which they don't enjoy right now. I think that that was one of the criteria and we don't need it. Tiny does not need that. We are still small and alone.

I guess the only point I'd really like to bring out, I understand that at the meeting in Midland it was brought out that I had voted against restructuring at my own council and when it came to county council, I supported it. There were some things that had not happened, and if they had not happened, I would not have voted for it at county council.

The compensation package is one of the major issues that we have come to terms with on Midland, and I've always felt very confident that it would be reality. Some people felt differently on it, but I understand that yesterday again that was brought out and discussed and I feel very good. I just want to clarify that. Yes, I did vote against restructuring in Tiny township, but I did support it at the county, just so that there's no misunderstandings of why I had done this.

The Chair: Mr Griggs had a clarification on one point.

Mr Griggs: I just wanted to also reiterate the point that there is one municipality that will be smaller as a result of the restructuring and that's Tiny township. Tay township will be combining with two villages, so it's not a pure loss in that case.

Mr Conway: But it is poor. The point that the reeve

made was that they pick up the two villages but they lose some significant—

Mr Waters: The villages are broke.

Mr Conway: The villages are broke. I think the reeve said to us pretty strongly that they were poor. They might be incorporating the two villages, but their financial capacity was certainly not stronger; it was weaker.

The Chair: I wonder if that's a good bridge to the County of Simcoe Transition Committee, which is the next group.

Mr Hastings: I'd like to thank you very much for hearing me today. I hope that you can come up with some fair and equitable answers.

The Chair: Thank you very much, Warden and Reeve.

COUNTY OF SIMCOE TRANSITION COMMITTEE

The Chair: If I could then call the County of Simcoe Transition Committee, Mr Ron Stevens, who is the chair, and Ms Janine Kilburn, the county transition coordinator. We appreciate your being here. We've seen you at the table and at the hearings, so I think you have a sense of some of the discussion, but we appreciate that you have come. Mr Stevens, if you would be good enough to begin.

Mr Ron Stevens: First of all, Mr Chairman, pardon me for my voice being a little hoarse. I've just come back from attending three days at AMO and drinking Hamilton water, so you'll pardon me.

Interjections.

Mr Stevens: Well, I didn't come back in an ambulance, but I came back.

Mr Conway: My experience of those Hamilton-Toronto conventions is water is all that ever gets drunk.

Mr Stevens: No comment.

I would like to, before I start, congratulate Mr Eddy on receiving the award he did last night at Hamilton. It was in recognition of his work on AMO over the years. I think it was well done and I congratulate you. I didn't have the chance to last night.

Mr Chairman, members of the committee, my name is Ron Stevens and I am the chairman of the county transition committee. This committee is comprised of 16 members who represent each of the proposed municipalities of Simcoe and the warden is *ex officio*.

The transition committee has been meeting since last July to discuss issues of common concern to each of the local municipalities. We are, in effect, a clearing house for local issues and our primary focus is towards the implementation that is scheduled to occur on January 1, 1994.

I must say quite candidly that the transition committee has been very concerned by the delay in progress on this legislation. Last summer when the committee first

began to meet, we understood that the enacting legislation would be introduced in the fall with the royal assent to be one full year prior to implementation.

This so-called window of opportunity vanished with the delay of the introduction in second reading of the bill. You will understand when I suggest that this created considerable anxiety for the members of the local transition committees. They had no choice but to take a cautious approach to restructuring in the absence of any enacting legislation.

I raise this issue because I feel it is important to acknowledge that real progress has been made locally despite what seemed to be a lack of commitment on the part of the province. I urge the committee to take whatever steps are appropriate to ensure swift passage of the final bill, although fairly. January 1, 1994 is fast approaching and there's a lot of work left to be accomplished at the local level. The transition committee must have early assurance of a firm commitment implementation date.

In terms of the actual provisions of the bill, I want to advise that the county transition committee does not support section 34 dealing with the boundaries of the cities of Orillia and Barrie and has the full support of county council on this position.

The committee's position is that this section is irrelevant given the authority already vested with the Minister of Municipal Affairs. Our concern is that section 34 as currently written creates the perception or the possibility of special consideration being extended to the cities of Barrie and Orillia. The transition committee is strongly urging the removal of this redundant section.

As chairman of the transition committee, I have a unique perspective on the restructuring activities locally. I can say that, without exception, each transition area has been diligent in ensuring that the new municipalities are well positioned for January 1, 1994. For some individuals, this has not been easy. It has meant suspending strongly held views on the merits of restructuring in order to ensure a smooth transition.

I feel that, as legislators, you have an obligation to respond in kind. It is incumbent on you to provide us with a piece of legislation that, in the final analysis, remains consistent with the goals that each of the transition areas have been working towards during the last 12 months.

Before I conclude my presentation, I would like to draw your attention, if I can, to Bill 51, article 28. You'll find it on page 20. This section allows the minister, under certain conditions, to make loans or grants to local municipalities that are deemed appropriate as a result of restructuring.

The transition committee has not dealt with this, nor has any approach been made to them at this point in a

formal manner regarding this. However, as chairman of the transition committee I have had some of the transition groups approach me informally to discuss the merits of this based on the fact that they will probably have some major capital costs to incur after restructuring takes place.

The capital costs can be in many ways: it could be for a new municipal office etc. In our own particular case, the township of Severn, we are in desperate need of a connecting link to the north of our township. We need that link for a number of reasons, but one major one is fire access.

We have a fire station on the 12th Concession that if, for any reason, we had a major fire in the township of Matchedash and all our equipment was required to be implemented at that fire, the distance to drive from that station would be approximately 45 miles to get into Matchedash. The connecting link would be of tremendous value. It would be probably from 7 to 9 kilometres in size. It would be expensive and we would definitely need the assistance of the minister on this.

I think there are numerous other things, but I think that if it is going to be a strong and viable new municipality, we must have the road links. As it is right now, we have no road links in the north at all. Thank you for letting me make this presentation.

1600

The Chair: Thank you very much. We'll begin questioning with Mr Wilson.

Mr Jim Wilson: Thank you, Mr Chairman, and thank you, Ron, for your presentation. I have two questions that relate to sections that I'm also looking at either deleting or amending or doing something with. I ask this because I'm staring over at Joan Sutherland too, and you may want to confer here because section 35 deals with waste disposal sites.

Mr Stevens: Yes.

Mr Jim Wilson: I guess it has been brought to our attention, this morning comes to mind, by Nottawasaga township. Wasaga Beach this morning didn't mention it. Their only concern was the imposition of a ward system. But I would think Wasaga Beach would want to be very worried about this because it currently is running under a certificate and allowing six north Simcoe municipalities to dump there.

This bill, without any environmental hearings, would open that up, it's my reading, to taking garbage, if the county so wanted, from all of Simcoe. Nottawasaga mentioned that because it's kind of going to be the dumping ground in the future. I would think Adjala township and Tos should be worried about this particular section. What is the history of that section and why is it in this bill?

Mr Stevens: With respect, Mr Wilson, the transition committee has not dealt with that because Wasaga

Beach has chosen to go another route on its own. I believe litigation was enacted. The county of Simcoe's waste management is totally the responsibility of the county of Simcoe. We, as a transition committee, have not even been asked to offer comment on that. So I really in all honesty cannot answer you.

Mr Jim Wilson: I appreciate the response, and it's kind of the response I expected, because I think section 35 came as a surprise to a number of legislators as we were reading through it. With your indulgence, Mr Chairman, I was wondering if we could ask, if she wouldn't mind, Joan Sutherland to respond to this point, given that she has chaired waste management over the years. Do you mind, Joan, at all, because it has come up?

Mrs Joan Sutherland: No.

Mr Jim Wilson: Can we do that at this point, Mr Chairman? I think it's going to be the only opportunity.

The Chair: Yes, if that's agreeable with our witnesses.

Mr Jim Wilson: Joan, can you come forward?

The Chair: Ms Sutherland, if you would just be good enough to identify yourself for the members of the committee and for Hansard.

Mrs Joan Sutherland: Joan Sutherland. I'm chairman of waste management at the county.

Mr Jim Wilson: The question stands. Can you give us an explanation for this authority that the county is seeking?

Mrs Joan Sutherland: We're seeking that because we've had problems with certificates of approval only allowing garbage from a certain area to go into that site. By asking to have all our sites be able to take waste from anywhere in the county, that way then when one site fills up we would have a place to put it without having to go through the EAs and all that. We aren't trying to make a major landfill site in one area. It's just it has been a real problem. In fact there was a resolution passed at AMO yesterday from another area asking for exactly the same thing, and it passed.

The Chair: Mr Griggs wanted to just make a clarification on that as well, which might assist in the discussion.

Mr Griggs: I just wanted to first of all point out that this was a recommendation of the county study committee. The Ministry of Environment and Energy has endorsed the recommendation. In fact the Minister of Environment and Energy, in a speech in the Legislature on Bill 7, committed to providing a regulation under the Environmental Protection Act to provide this power to all counties that have assumed waste management.

I should make it clear also that the expansion of the service areas does not change the nature of the waste entering the sites or the capacity of the sites. In fact

those aspects of the site will still be governed by the certificates of approval.

Mrs Joan Sutherland: I have to agree with what he's saying.

Mr Jim Wilson: I appreciate it. I am aware of other legislation coming forward in this regard to give it to all of the waste management authorities in the province, and I just sort of wonder why it's in this particular bill. Thank you, Joan, for your response.

Back to the transition committee. There's been talk about section 9, which is permissive authority to allow for plurality of votes in committees of council. It's been suggested by a number of witnesses to date that perhaps, given that county council only has one vote per municipality on its committee structure now and did that, I understand, by bylaw not too long ago, we should just delete section 9 and therefore get rid of some of the anxiety that witnesses have been expressing with respect to this. It's the permissive clause, section 9, top of page 8. Was there discussion? I mean, we're told by the ministry that it's simply a carryover from 1988 legislation. Any objection to deleting it?

Ms Janine Kilburn: The transition committee dealt with this issue, not in any policy-formulating sense but rather acknowledging county council's authority to decide in this regard, and was advised of recent action taken by county council regarding the plurality of votes on committee, so just to suggest that the committee did not take a formal position on section 9.

Mr Jim Wilson: Thank you.

Mr Wessinger: Thank you for your presentation. I'd just like to raise a matter that was raised, at the hearings this morning, by a member of the committee and also by one of the presenters, and that was that the effective date of the implementation of this bill be deferred beyond January 1, 1994, to the time of a new election. I'm wondering if you have any comment on that proposal.

Mr Stevens: Well, Mr Wessinger, our problem at the transition committee is that we have been operating without any type of date in mind. January 1 has been the date, but with the lack of the first reading being done and then finally the second reading being done, there has been a lot of anxiety among certain transition groups. I would imagine that part of the reason for the deferral might be that they might not be ready or they feel that there could be room for a possible change in this whole scenario.

As a transition committee, we can't rely on that one way or the other. We have to proceed ahead. We've been charged with the responsibility by the county to act as the steering committee in the transition, and we do that. Until somebody tells us that it's not needed any more or they want to change our mandate, then, fine, but we will continue to do what we're doing.

Mr Wessinger: You're working, then, towards the January 1, 1994—

Mr Stevens: Exactly.

Mr Wessinger: —and you would not like to see that changed.

Mr Stevens: Whether I would or would not personally really is secondary at this point. We're just doing the job we've been selected to do.

Mr Wessinger: Thank you.

Mr Waters: You would feel that it would be too confusing to add another date at this point in time.

Mr Stevens: I personally think it would because everything is geared towards that now. It's the ongoing time frame after that. We have to sit, for example, as a joint council for a period of 9 to 10 months. I think that should be got out of the way as fast as possible. If there is going to be an expansion of the date further into 1994, then from a personal point of view I would suggest that joint councils not sit then, that you continue on your own and work as committees as you do now.

The Chair: Mr Conway.

Mr Conway: I'll yield to Mr McLean.

Mr McLean: Mr Stevens, how many are on the transition committee and who are they?

Mr Stevens: The 16 transition groups are represented on the transition committee. We have mayors and reeves and designates. Do you want the names of each individual one?

Mr McLean: I was just curious. Is the restructuring committee still in place? How many are on it?

Ms Kilburn: Sir, if I may speak to that, the transition committee was established as a result of one of the recommendations in the study report. I can't recite it verbatim, but it suggested that a steering committee be in place to guide the transition as the county moves towards implementation. So that, in effect, is simply acting on one of the recommendations in the county study report.

Mr McLean: And who appointed those 16 study commission people?

Mr Stevens: The members who sit on the transition committee were appointed by the respective transition groups to sit on the committee, and from among those 16 they elected myself as chairman.

Mr McLean: Are there 16 different groups?

Mr Stevens: Yes, there are.

Mr McLean: We've never seen a list of them or anything. I'm wondering—

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The Chair: Can I just ask so we're all clear, when you say the 16, these are the new municipalities and those 16 persons are elected officials?

Mr Stevens: Yes, county council.

The Chair: That wasn't entirely clear.

Mr Stevens: They don't necessarily have to be members of county council.

The Chair: Right.

Mr Stevens: I, for one, am not a member of county council, although I am the deputy reeve of my own township, but they represent the new transition group.

Mr McLean: The other question I have is with regard to funding. There was supposed to be funding come first reading, come second reading.

Mr Stevens: Yes.

Mr McLean: I've been told that it's going to be directed through the administrator at the county and then municipalities have to apply for it. Is that in the transition report or in the bill?

Mr Stevens: No, it isn't. I will answer part of that, if I may, and I'll ask Janine to answer the other part.

Initially, in 1992, when the transition groups first started to meet, we were told that half of the funding—may I back up a bit? There has been a formula put into place for funding of the transition groups. We were told that half of that funding would come in 1993 and the balance in 1994.

Mr McLean: Who told you that?

Mr Stevens: It came from a member of the Ministry of Municipal Affairs. This was in an open meeting of the transition committee.

Mr McLean: Is he here today?

Mr Stevens: No, she is not here today. That, for whatever reason, the delay in the implementation and everything else, has caused this to go on delay. The ministry has indicated to us that it has a great concern in the legality of paying money to a municipality that does not have a legal entity, whether we do or not at this point in time.

The next proposal has been that the money would be transferred through the administrator of the county for disbursement. That's where we are at this point.

Mr McLean: And where is Mare Brown today?

Mr Stevens: I don't know.

The Chair: Mr Wilson, I know you wanted a supplementary on that, and then the parliamentary assistant has a comment on the previous two questions that might help to clarify this.

Mr Jim Wilson: I think the supplementary is appropriate given that Mrs Sutherland, for example, has already been through restructuring. Joan, at the time New Tecumseth was restructured, prior to it becoming a legal entity on January 1, 1991, did not money flow from the province? You were submitting bills prior to actually becoming a legal entity, were you not?

Mrs Joan Sutherland: Yes, I think we were.

Mr Jim Wilson: I think you were too. I guess the

parliamentary assistant can clear this up, but one of the reasons given to date is exactly as Ron said, that there aren't legal entities there. Clearview, for instance, is not a legal entity yet, therefore you can't flow funds, but that wasn't a problem, to my recollection, when New Tecumseth was being formed.

Mrs Joan Sutherland: It seems to me that we were sitting as a joint council before the funds started to come in, so the bill had gone through.

Mr Jim Wilson: The bill had gone through.

The Chair: I wonder if Mr Griggs can just clarify that.

Mr Griggs: First of all, regarding the funding in south Simcoe versus the transitional funding that's been set up for the Simcoe restructuring, one of the reasons for this formula that was established for the Simcoe municipalities was on the basis of complaints from some of the south Simcoe municipalities regarding the system that was used for transitional funding in that case. As you mentioned, they submitted invoices for individual expenses and there was some uncertainty as to was it a transitional expense, wasn't it transitional? There was a lot of uncertainty. There wasn't any clearness as to what would be funded and what wouldn't be. So this formula was worked out to provide funding up front and allow the municipalities to decide how it would be spent to deal with the transitional concerns.

Regarding the flowing of funding, as I've mentioned earlier in the hearings, we are preparing an order to provide funding to the county, and then the county would be providing funding to the municipalities because of this question of legal entities not existing yet. In fact, in the case of South Simcoe, they weren't funded until the municipalities were created by the legislation. To my knowledge, this is the first case where there has been funding or there will be funding provided prior to the new units coming into being.

Also, regarding the transition committee and the makeup of the committee, I have the recommendation that county council passed before me, and it said that "there be a county coordinating transition committee consisting of a full-time transition coordinator," who I believe is one of the witnesses before us, "and one elected member from each municipal transition committee."

In essence you have two sets of transition committees, one at the county which acts, as we've heard, as a clearing house for the municipalities to hear how other municipalities are dealing with transitional issues, and then transition committees at the local level made up of elected representatives from those municipalities that are being combined to deal with the local issues. I hope that clears up some of the questions regarding this.

The Chair: Thank you very much for coming before the committee and speaking to us today.

J.G. ADAM

The Chair: I call Mr Jim Adam. Mr Adam, welcome to the committee. Thank you for coming. We have, I believe, a copy of your submission. You are a councillor with the township of Nottawasaga. Please go ahead.

Mr J.G. Adam: I'm presenting this just on behalf of myself as a councillor of Nottawasaga, not on behalf of the township of Nottawasaga. I'd just like to make a couple of comments flowing from this morning. I sat in your hearing at Collingwood this morning. On the road coming down, I got fired up again and I thought about another couple of points, so instead of rewriting my speech, I'd just like to make a couple of comments on the timing and on the advertising of this hearing.

My local paper is the Creemore Star. The public notice of these public hearings was in last Wednesday, the same day that was the final day to get on the agenda. This is supposed to be a public meeting, for the public. Unfortunately, the vast majority of us are all politicians. The public really hasn't been able to get a look in. I was talking to a lady who was in Collingwood this morning. She telephoned a week last Monday to get in and was told that the hearings were already full. I phoned the same day and whoever I spoke to mentioned, "Oh, you're from Nottawasaga, so you'll be going to the Nottawasaga Inn." Presumably they thought the two were together. I didn't bother to change his mind, because at least coming here this afternoon I got a second kick at the cat. You all heard from Clearview, Creemore, Stayner—no, you didn't hear from Stayner—Sunnidale and Nottawasaga this morning, very eloquently.

This afternoon I'm not, you'll be pleased to hear, going to deal in specifics and minor points and amendments; I'm going to give you a little lecture on democracy, if you'll indulge me. I will now return to my script.

I would like to start with a couple of quotes from *Municipal World* of June 1993 and August 1993. *Municipal World*, as most of you probably know, is a trade magazine for local politicians in Ontario and many other parts of Canada and the world.

First, from Laurier LaPierre, TV broadcast journalist and author, at the Federation of Canadian Municipalities conference in Edmonton this summer:

"Canadians have been consulted to death but governments do not do what they have been told to do....He lashed out at amalgamations and the redrawing of municipal maps by provincial bureaucrats. People in one community should not be forced to live with another community. 'Bigger is not better, and smaller is not better at all,' he said. 'What is better is what people want....Beware of politicians who promise gold at the end of the rainbow.'"

From the June edition of the same magazine, an article by Michael Keating, professor of political science at the University of Western Ontario:

"It is easy to point out that many of the old, small municipalities, in reality, had little power or independence. Yet they did tap a sense of community identity which is an important element in local democracy....The 1990s will therefore see more changes, but the style will be different. Governments learnt in the 1970s that local government reform can be difficult and unpopular. Few would wish to stake their political futures on the issue again. This time around, they are treading carefully, paying more attention to local susceptibilities, and trying to carry communities with them. It will be difficult."

Unfortunately, Simcoe county seems to be stuck in the 1970s and unaware that we are in the 1990s and totally unaware of Professor Keating and political science. From the above quotes, I hope you gather that I am very much in favour of the democratic process of local government. "Democratic." Now there's a word and an idea to play with. It means many things to many people.

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You will be told that Simcoe county very democratically chose to restructure the county and that therefore the province is only following the wishes of the democratically elected representatives of the people of Simcoe county.

Look at this more closely. South Simcoe was restructured by the previous government by fiat due to inter-municipal squabbling. They're still at it, although in larger cages. Their democratically elected representatives in the next go-round, this one, took the attitude: "We were made to suffer; so should you." The larger municipalities around the cities of Barrie and Orillia were so scared of being molested by the tiger of proportional representation that against the wishes of the province, they threw them, the cities, out of the restructuring study. However, they used their own large number of proportional votes on county council to dictate to the smaller municipalities such as Creemore, Sunnidale and Nottawasaga the present restructuring scenario.

At a more local level, the town of Stayner, having a debt of approximately \$2.1 million, thought it might spread this out a bit more, and the town of Collingwood has delusions of grandeur.

When restructuring of Simcoe county was debated this year, the municipalities were almost evenly split. The larger ones tended to be pro, the smaller against. The municipalities of Simcoe county are communities. The larger ones are diffuse, a collection of communities. The smaller ones have an intense local identity. Is not democracy all about articulating local identities and electing representatives for the larger arena? In most of

the larger municipalities, there was little or no public debate about restructuring. In many of the smaller communities, the public was intensely against restructuring. A few communities were split, and so were their votes at county council.

In Nottawasaga in the last election, we held a referendum which asked, and I quote, "Are you in favour of restructuring (boundary) changes for the municipality of the township of Nottawasaga?" Of the approximately 25% of the electorate who voted, and we are approximately 50% non-resident, 90% voted no. Of two people who voted for restructuring, one thinks they will be better served by the Collingwood police department than the Stayner OPP, and the other is looking forward to the sewers and water he is assured by the mayor of Collingwood he will get when he is restructured into the town. No one else I have talked to is as assured by the promises of greater efficiency and less cost in the delivery of services that are the only justification for the restructuring that has been put forward.

Democracy is not necessarily the overwhelming sway of the majority. Minority interests must be considered as well. The fascist regimes of the 1930s were much admired in some quarters for their efficiency: The trains ran on time and the roads were wide and straight.

The sense of community, in Nottawasaga's case from 1851 to 1993, 142 years—there have been various years quoted; I'm going by the act when the combined township of Osprey-Nottawasaga was formed in 1851 following the Dufferin report—should not thrown away to the gods of efficiency in the name of democracy.

Respectfully submitted, J.G. Adam, councillor, township of Nottawasaga.

The Chair: Thank you very much, Councillor Adam. We'll begin questioning with Mr Eddy.

Mr Eddy: Thank you for your presentation. One of the problems, of course, that the municipalities of a county are faced with is the spectre of annexation of parts of municipalities by the urban centres as they grow, and of course one of the reasons the restructuring bill is being looked at is to look at that situation and accommodate that. I guess it then negates the need to go through the annexation process.

How do you feel about the proposals where the urban, such as the towns of Collingwood, Midland etc, are getting parts of areas to be added to their municipalities, I expect mostly to provide for the growth? Can you see that being divorced from the complete restructuring proposal?

Mr Adam: I can only speak vis-à-vis Collingwood and the township of Nottawasaga, and as was mentioned this morning, we were in preliminary discussions on annexation, Collingwood and Nottawasaga. We in the north end of Nottawasaga have certain areas which are for all intents and purposes frozen until full municipal

services are provided. We were in preliminary negotiations when restructuring came along.

Obviously, I think Collingwood decided they could get a hell of a lot more under restructuring than they could haggling with the farmers of Nottawasaga. We were prepared to give them some land. I think it was 800 acres, compared to 2,400 which they got now, which would have adequately looked after servicing problems on our own lands, which are effectively frozen. Collingwood has large areas which are not developed yet even under its present boundaries, and yet their municipal services are at their limit. To take on more, they're going to be into more sewers, more water etc.

Mr Eddy: So you feel that the council would have been prepared to negotiate a friendly annexation of—

Mr Adam: Certainly. I mean, you negotiate, you haggle, you bid. I don't think—as far as annexation is concerned, restructuring is taking a sledgehammer to crack a nut.

Mr Eddy: Of course, that can happen with annexation. You never know the results of an annexation decision until it's happened, as we saw in the case of London-Middlesex, which you may be aware of, where the city of London was awarded 64,000 acres and wanted less than a third of that.

Mr Adam: The city of London I wouldn't like to comment on. I don't know that much about it, but I know it's a mess or was a mess. I would say, under annexation, the opposing municipalities put their best foot forward and you hope for a fair arbitration. Nothing wrong with that system. I have nothing against it.

Mr Jim Wilson: Thank you, Councillor Adam, for your very thoughtful presentation. I think the lecture on democracy is needed. I think it's needed at the county level too because we've inherited this. We've had all kinds of conflicting evidence from people as to exactly what happened and how boundaries were drawn and whether or not the public was consulted, whether or not the public was heard. I think some of us who live in the county have a pretty good idea of what happened. But unfortunately the government of the day has decided that it will, so far anyway—I guess we'll find out tomorrow how flexible the government's going to be, but they will essentially do the county's bidding.

I agree with you with respect to democracy. I don't know how local politicians who went to county council and voted for this all the way through can go back to their ratepayers. It would seem to me that some of those local politicians are opposed to the GST. The argument you'll get in federal circles from politicians who were in favour of imposing that, for example, as a contentious issue, was, "It's the right thing to do, and damned whether you understand it, public, we're going to go ahead and do it."

I thought that Canadians learned a lesson. There's a rule in politics that if you want to do something like the GST or change the constitution, you'd be best to create the void first and then come along later and fill it. I guess one of my frustrations, and I see it coming through the pages in your presentation, is that as far as I know, politicians who were in favour of restructuring—and I mentioned this to two previous wardens and briefly to Warden Hastings at one time, that it would seem to me the process would have been better if they had gone out to the Rotary Clubs and the Lions Clubs and community halls prior to putting this in stone and sending it to Queen's Park, and told people exactly why they believe restructuring should go forward.

You mentioned in your third-last paragraph that the only justification for restructuring that's been put forward is greater efficiency and less cost for delivery of services. I suspect—and I have searched the historic record; I have searched where regional governments have been imposed, some by Conservative governments in the past, some, as in the case of south Simcoe, with the Liberals—that we can't find those efficiencies and we cannot find those cost savings.

The evidence that we've seen to date, albeit in only three days of hearings, which is all the government would allow us, has been time and time again municipalities coming forward and saying: "Well, I don't know where you get this idea that it's going to be less costly. It's going to cost us more." A prime example was the representatives from Clearview: Ted Hannan, the administrator there now, racking up in a very short period of time thousands and thousands of dollars of additional costs.

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We've had the same story from many other municipalities. Because they are relatively small municipalities, I don't think these are just short-term costs either. I think they are long-term costs. I mean, when you see municipalities now, some dealing with debentures that from a Queen's Park standpoint aren't that great, like Stayner with \$1 million or something, that's a lot of money to the people of Stayner. And now to be incurring more debt as a result of restructuring, or having to increase the taxes so that Clearview doesn't go into debt, is beyond me.

I think that also you may want to comment on something you haven't said. But a number of the principles, it seems to me, as I read through the green book—take an example like Tos and Adjala. You take your six principles for a viable municipality, and it seems to me that they're worded in such a way that when you see the justification section for that amalgamation, the principles are so loosey-goosey you can basically—and I used to be a speechwriter for cabinet ministers. I could probably come up from the top of my head with the justifications to match the principles. It

just so happens my family has lived 150 years in Adjala and I know a lot different than what's on those pages in front of me.

I just wonder if you have any comments on that, because you mentioned the only justification seems to be cost savings. We've seen no evidence of that. We've seen very little, I should say. There have been a couple of municipalities that have said to us, not in a strong way but in a very weak way, "Well, we can see down the road a few years there might be some savings, but we've got to get over this hump first." I think most of the evidence has been weighted that there are tremendous costs now. We don't see the efficiencies, and we've had the school board example thrown at us along with regional government examples.

Secondly, some of their own criteria and principles, I think, have been violated, which makes it very difficult now when the government has decided to blindly follow what has been handed to us by the county.

Mr Adam: I'll make two comments to that. On the one hand, the new municipality of Clearview is not the sum of its four component municipalities because we have been stripped, I think in Nottawasaga's case by approximately—we don't know. Nottawasaga hasn't got a computer, so we're not quite up to steam, but we think we've been stripped of about 20% either of our assessment or our households. So we're not as viable. The sum is not as viable as the individuals.

I appeared on behalf of the township or sat in alongside the presenter at a couple of meetings with the county when we were asked for our views. At least you are a lot more receptive. We sat and we made our brief. They hardly made a pretence of listening. They sat and listened to our brief: "Thank you very much. Bye bye." Then when any proposals came out, there wasn't even a glimmer that they'd listened to us or taken anything in.

As an ordinary councillor, it's been very frustrating. You've heard a lot about boundary alterations and adjustments and everything. As a councillor, I had absolutely no input whatsoever into boundary adjustments. We finally got the boundary, hopefully, straightened out in north Nottawasaga. We had a joint meeting with Collingwood. We wine and dined them in one of their hotels and we got them to agree and we picked the tab up before they knew what the hell they'd agreed to. At least we have a reasonable, from a planning point of view, boundary up there. The restructuring committee had this thing zigzagging all over the damn road. It was a very frustrating experience.

The Chair: The parliamentary assistant just wanted to clarify a couple of matters.

Mr Hayes: I know it's been said several times that there wasn't much consultation or many meetings, but

my information has it that the committee held three rounds of public consultation meetings, not just three meetings, but three consultation rounds, across the county. This is what we're being told. They released several discussion papers including the draft of their final report and provided numerous opportunities for the submission of written comments. I understand they had open houses and they spoke to several people and spoke to people one on one. The problem I have, sitting here as a politician, is that when you hear one side say it didn't consult and the other side is saying yes, it did—

Interjection.

Mr Hayes: Well, I think we've consulted quite well, Mr McLean. As a matter of fact, people are talking about the timing of this. We rushed very much to get this through the last day of the Legislature so we could come here to listen to the people, and that's what this government is doing.

Mr Adam: It's better than nothing. Thank you.

Mr Hayes: Yes, it's better than what was before then. But I think that provincial politicians who come to communities and start saying that county politicians are not listening to the people—I don't think that's fair for them. You may do it because you're in the centre of it but I don't think that's fair. They have their job to do and I respect, and I think most of the members do, the jobs, because I spent time in county council also and I know what it's like.

I preferred, when I was sitting on the township council, that we could do some planning on our own and not have the provincial government come down and ram things down our throat. As a matter of fact, that's what we're doing here: the wishes of the majority of the elected people in the community. I think that's exactly what we're trying to do here. They were duly elected and we have to respect that.

The Chair: Mr Adam, I want to thank you very much for coming to the committee today and for bringing your submission.

Mr Adam: Thank you for listening.

FRANK T.L. HUGHES

The Chair: If I could then call Mr Frank Hughes, if he would come forward. Members of the committee, I think you have all received a copy of Mr Hughes's submission. Welcome to the committee, Mr Hughes. Once you're settled, please go ahead.

Mr Frank T.L. Hughes: Mr Chairman, members of the committee, my submission is probably quite different from the usual submission you get.

As a member of a beach association I had not done anything for the association and they said at a meeting, "Can we have a volunteer to find out about restructuring?" Stupidly, I put up my hand and I found myself with quite a Joe job. I am not representing any beach association. I am apolitical.

I found myself looking in newspapers and all I found in a Midland-area newspaper was a bitter debate between two factions in the county. So taking my volunteering seriously, I went to Tiny township office and looked up the committee meeting minutes, I went to Simcoe and did the same thing and I went to Midland and I did the same thing. I went to get submissions from other places like Barrie and so on and tried to put something together. I attended Tiny council meetings and—

The Chair: Would you mind just speaking a little bit closer to the microphone.

Mr Hughes: I attended Simcoe county meetings. I told Mr Hastings at the very beginning that I would not say anything I wouldn't already say to him and also to the council. So what you have here before you is a copy of my seven deputations that I made to Tiny council, and each word in each deputation has been read to Tiny council. I also told Mr Hastings, and he'll probably remember, that I disagreed with his approach to restructuring from the very beginning but that I probably would agree with a number of other things and that my focus was on restructuring.

So if you'll turn to I guess the fourth page, you'll see that I've referred to pages in the deputations just as a notation if you want to refer to them. The first one is D73. This is the last deputation that I made on restructuring. I say the issue is a more fundamental one than that of restructuring and boundary changes for Tiny. It strikes at the very heart of our democratic system of government.

The Chair: I'm sorry. Where are you reading from?
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Mr Hughes: I'm reading from page D73, which is on the very last page in the top right-hand corner.

I mention here that despite the fact that 92% of Tiny's voters opposed the boundary changes for Tiny, this Tiny council has always been in favour of restructuring. Despite what has been said, if you turn to page D70, I refer in the middle to a previous deputation that I had made. I'll read out what I had said at the previous deputation.

I said, "Despite Ross Hastings's statements to the contrary, he has never been opposed to restructuring or boundary changes to Tiny. Despite this Tiny council's publicity against restructuring, they have never wavered in their determination to give Tiny's land at Highway 93 shopping mall strip to Midland."

The shopping mall strip, as you know, has 85% of our commercial and industrial tax assessment. It's our tax assessment base of about \$360,000 or \$400,000 per annum. We have no way of making that up at all, and that goes to Midland.

"At the meetings with Simcoe county and the province, this Tiny council has always discussed its February

21, 1992, giveaway Tiny's land at Highway 93 shopping mall strip position or a variation of it.

"At meetings with the press and the public, this Tiny council has always discussed 'oppose restructuring.'" That I said to Tiny council.

At the completion of my deputation, there were no comments or questions from this Tiny council and it did not challenge or dispute any of my statements.

After the deputation scheduled for the meeting was finished, the council permitted an unscheduled deputation by a Tiny resident who praised this Tiny council to high heaven and who said that he had read in a newspaper that restructuring was a foregone conclusion and that this Tiny council got the best deal it could.

I refer you to page D72 at the top. I asked Ross Hastings if a couple of Simcoe councillors at the meeting in July 1991—that was for the voting on the final report—had voted the other way and Tiny had won the vote to stay as is. Was he telling us that, despite the vote, there would still be boundary changes for Tiny? Ross Hastings said there would be boundary changes.

Gail Barrie, a councillor, said that as far back as 1985, when she was in Midland, Ministry of Municipal Affairs officials had told them that there was going to be restructuring and that they had better be prepared for it. She repeated that restructuring was a foregone conclusion.

Peter Stubbins gets very exasperated with me because I keep asking him the same questions. On the top of D73 I said, "Peter Stubbins is exasperated and seems bewildered by the thought that anyone would keep asking him why this Tiny council would put only one position—in favour of boundary changes for Tiny—to the county and to the province and at the same time spend \$10,000 of Tiny taxpayers' money to tell Tiny's residents that they oppose restructuring."

I'd like to go on to a little history and I'm sorry to bore you with details, but I think from my point of view and I hope perhaps from yours it may be important. If you turn to the next page, the first page is marked "History," in the front of the book.

The Chair: What page are you—oh, the one that starts with "History."

Mr Hughes: It's about the fifth page, and I have the references here but I'm not going to refer to them, of course; it takes too long. But they're there if you want to check them.

On August 25, 1990—that's one year before the final vote at Simcoe—the former Tiny council voted to oppose restructuring 5 to 0.

On June 20, 1991, one month before the final vote, Peter Stubbins—he was a councillor then; he's now deputy reeve—moved and Ross Hastings seconded a motion to rescind the August 25, 1990, resolution opposing restructuring. That was defeated 3 to 2.

On the same day at the same meeting, Ross Hastings moved and Peter Stubbins seconded a motion to offer the east side of Highway 93 to Midland. That was defeated 3 to 2 and that was one month before the vote at Simcoe county on the final—

The Chair: Mr Hughes, could I ask you, just because I'm concerned that there's time for questions and I just didn't know, was it your intent to read all of the next four pages?

Mr Hughes: I'll just skim through the next four pages.

The Chair: Okay. It's just that I guess we're balancing off possible questions. That's up to you, but I just—

Mr Hughes: All right, we'll skip down to July 23. At Simcoe county council's final meeting, the former reeve told the Simcoe councillors that Tiny was opposed to boundary changes for Tiny.

Ross Hastings said that he was in favour of boundary changes at Highway 93, and a little later in the discussion Ross Hastings stood up again and said that the former reeve did not speak for all of Tiny. Ross Hastings did vote no, but it can be asked if the damage was done by his statements before the vote, and Tiny lost by a very small margin.

At that same meeting, Ross Hastings voted for 108 out of 126 motions in favour of restructuring, and he voted for 11 out of 17 motions in favour of boundary changes. But on August 30, 1991, on the front page of a local newspaper it was written, "Hastings Comes Out Strongly Against Restructuring. 'I do not want to see the restructuring of Tiny implemented,'" he said. He said he cannot support the proposed boundary line changes for Tiny which would remove the Highway 93 mall strip, which is a contradiction of what he said at council.

In the referendum, of course, you know it was 5,090 to 420 opposing restructuring.

Now, on February 21, 1992, without any public input or without any public debate, this Tiny council went to the Simcoe committee and volunteered to give away all of the Highway 93 strip. I wonder that the newspaper reporter who did a flip-flop after Ross Hastings's vote at the Simcoe county council meeting didn't call attention to this. He glossed over it by saying that they weren't obliged to follow the referendum.

The council also formed a committee to sell its position to give away the Highway 93 strip. Then, in June, a resident said essentially that the summer residents were coming back and when they found out what the Tiny council had done, they'd be very angry at it and it would be better to have them angry at restructuring than at the Tiny council. So that same night, they kept their same official position to give away Highway 93. They abandoned their committee to try to promote

it, they adopted another resolution opposing restructuring and they formed a committee to oppose restructuring. So now they had two positions, two contradictory positions.

At the meetings with the county and at the meetings with the province, this Tiny council has always discussed giving away Highway 93 in one variation or another. At the meetings with the press and at the meetings with the public, they have always said, "We oppose restructuring," and restructuring, of course, for Tiny is boundary changes.

1650

At the end of the August 26 Tiny council meeting, Councillor Barrie praised Deputy Reeve Stubbins for all the extra work he was doing trying to get the Simcoe county councillors on board for their giveaway position. This was at the same time as they were going out raising \$10,000 to fight restructuring.

At the first public meeting on July 25, 1992, on restructuring, I asked Ross Hastings some questions, and in answer to some of those questions, he said that he had always been in favour of giving Highway 93 east side to Midland.

On the August 12, 1992, Tiny council meeting, I asked Ross Hastings, "Which of the two of Tiny council's official positions do you now take? The February 21, 1992, position which gives all of the Highway 93 strip to Midland or the June 10, 1992, position which is against any changes whatsoever taking place in the final report?" Ross Hastings did not answer.

Councillor Gail Barrie was asked what her position was on restructuring. She said she had five or six positions. Then on August 21, for no reason at all I could make out, the same newspaper reporter wrote, "Deputy Reeve Ross Hastings voted for many of the resolutions but against all that dealt with changing municipal borders in Simcoe county."

The record is clear. He voted on 11 out of 17 to change borders. So something was wrong there, and I thought I'd put it to the council. As the council meeting was starting, Ross Hastings told me he would not answer my questions and the reporter told me he was tired when he wrote it and he made a mistake. However, there were quite detailed statistics in that article.

On April 27, when Orillia and Tay made their motion which would have squashed restructuring if it had passed, the strongest and most-often-heard voice speaking in favour of restructuring at Simcoe county council meeting was that of Ross Hastings.

I did put in my deputation, I believe, and I said if I didn't put it, because I remember saying it, that Ross Hastings didn't act as an impartial chairman when somebody at that meeting stood up and was speaking against restructuring. Ross Hastings didn't call on the next speaker who had his hand up; Ross Hastings said

something in favour of restructuring, and I have said that to his face.

At the next meeting of Tiny council—this was a very important meeting at Simcoe county—at the next meeting the next day at Tiny council, there was not one word said about restructuring.

I've left to the last, and you can refer to it, the deputation page numbers are there, the resolution was passed at Tiny council on June 10. This is after their February 21 position and after they had gone to the county and the province giving away Tiny's lands. The resolution read:

"Whereas all efforts at ensuring the integrity of the township of Tiny's municipal boundaries and financial welfare have been frustrated by the county of Simcoe under the guidance of the Ministry of Municipal Affairs...."

This is what they sent out to about 800 municipalities asking for their support in the fight against restructuring. So what has happened in Tiny township is that the people have been confused; they haven't been represented. They have been told the township is against restructuring, the county is against restructuring. Then the township council turns around and every time they have spoken, every single time they have spoken to the province or to the county, they have been speaking about giving away Highway 93, which of course, if it is given away, makes it smaller and makes it very poor and there is no way that we can recoup that lost revenue in taxes.

I'm finished and I want to thank you for listening to that detail. I have a feeling I might have bored you, but—

The Chair: We have several questions, so we'll work those in. Mr Wilson.

Mr Jim Wilson: Mr Hughes, you've obviously done a great deal of work on this presentation, but I just want to say to you that there are probably many politicians in this room who don't agree with my stance on restructuring. I think to be fair to Mr Hastings, he's already explained to this committee, and I think you were in the room, that he did change his mind on restructuring during the process. I respect the fact; I think he's been quite honest about that, in his defence. The question I have for you, are politicians not allowed to change their minds?

Mr Hughes: Politicians are allowed to change their minds the same as any other human being. However, what I think a politician should do—we all realize that everybody has an agenda and they want to get it through and that they are going to use a little political legerdemain now and again to get one thing in front of the other.

But where I differ with Mr Hastings is that he says that he was against and he voted no for the giving away

of Highway 93, which he did, he voted no. Then he said he changed his mind about giving it away when they found this compensation package. However, if you go back and look at June 1991, which is one month before the Simcoe county meeting, he put a motion in front of Tiny council to give away part of the Highway 93 strip.

To me, when he says at another time, in the summer after at a public meeting, that he has always believed it should be given away, then he may believe he has changed his mind, but when he stood up and voted no, he also stood up at that very same time and said, "I'm in favour of giving away the east side of Highway 93 strip." Then when they voted, of course, it was yea, yea, no, no, no. His influence, if any, of course, would have to be there.

Now, on the compensation package—I didn't bother to mention it here because of time—but in one of those 108 motions that he voted in favour of after, I think, he knew that Tiny was going to lose its Highway 93 strip because that motion had been voted on; he voted to accept three years' compensation paid over five years. I can't understand when he voted for that, knowing what the situation was, knowing that we were losing it because the vote was there, for suddenly compensation to become the biggest factor that he's talking about.

Yes, he can change his mind, but how much of the change of mind can the poor public in Tiny township understand? It's left Tiny township confused. If you walk around and you ask anybody in Tiny, "What about restructuring?" they say, "Oh, yeah, I'll have to get the draft report to see what they're doing about it." That happened to me not long ago. They just don't know what's going on.

You gentlemen can make up your minds. It's here. I have said it over the period of more than one year. The usual reaction that I get is dead silence, absolute dead silence, it's not reported in the mainline newspaper so nobody knows about it, except a little family newspaper that sometimes prints anything, or at the front of the table. There's Reeve Hastings, Deputy Reeve Stubbins and Gail Barrie, and it turns into quite a long debate with them on one side and me on the other and they are defending giving away the Highway 93 strip, which they were doing all the time.

Mr Waters: My question would be—let's say we don't go ahead with restructuring of the county of Simcoe, so therefore you now have the east side of Highway 93 in Tiny township—how are you going to supply the sewage plant and who's going to pay for it and where's the outfall going to be?

Mr Hughes: Well—

Mr Waters: Because if that doesn't go to Midland you're going to have to put a sewage plant in and you're going to have to find an outfall for it. So that's a key question to me with that particular piece of land.

Whether you restructure or not, that land is going to have to be serviced with sewers.

1700

Mr Hughes: Depending. It doesn't matter where the border is, the boundary is, because the land is not going to move. Not being an engineer, not being an environmentalist except trying to recycle and so on, I have come to know that a lot of things can be done cooperatively. Every hospital used to have its own laundry. Now they have cooperatives that do many laundries.

Somebody asked me this question and I didn't know how to answer it. I said it on the spur of the moment and I'm going to repeat it now. About 25 years ago humanity had a whole lot of people working, a whole lot of technicians and so on, and they put a man on the moon. I'm an optimist enough to think that in 25 years we have probably made enough progress so that reasonable people in Midland and reasonable people in Tiny could make a cooperative effort and come together, technically and politically and economically, to carry out a sewage program for that whole area without it having to go from one place to another.

Mr Waters: Where's the incentive then for Midland to do this? Because the reason the malls were put there—let's be somewhat crass about it. The malls went there because they didn't want to pay the high taxes that were on the other side of the road, and those high taxes were there because of sewer and water and service.

Mr Hughes: Exactly.

Mr Waters: What I'm saying is that, even if you didn't have Simcoe county restructuring, the service has to go to the other side of that road. So there is absolutely no benefit for Tiny. Tiny's going to lose anything that it makes in taxes there because it would have to pay Midland. There is no possible outfall for a sewage plant on that side of the road. The topography doesn't—there's no river, there's no water. It's all on the other side of the road. Therefore, they have to buy service from Midland, so you've lost it anyway.

Mr Hughes: Well, there's Little Lake which is already polluted.

Mr Waters: But you can't use that as an outfall.

Mr Hughes: No.

Mr Waters: Because it has no outlet to speak of.

Mr Hughes: My suggestion in here doesn't have anything to do with the rest of Simcoe county. All I'm suggesting is that the restructuring or the boundary changes be delayed until a referendum, till the next election for Tiny and the two adjacent neighbours, Midland and Penetang. Have a referendum in all those areas. Now, being a believer in democracy, we may find that they'll vote to become one municipality. Who knows? Of course that would promote the concept of restructuring. They may vote to stay the same as they are, but—

The Chair: I'm sorry. I'm going to have to move on to our last question. Mr Eddy.

Mr Eddy: It's just a quick one. Thank you for your presentation. You're aware of the annexation procedure in the province of Ontario, somewhat I expect. Villages grow into towns and towns into cities and cities into metropolises or megalopolises or whatever they're called, very large, but they do that by absorbing and annexing lands around them.

In this case that's what's happening. Tiny township is not really being restructured in a sense, is it? Other than it is losing—which is very important—lands to two towns. Now, either of those towns or both of those towns at any time could apply to annex this amount or far more. Maybe they would decide to go right across the peninsula. Do you see a danger in not facing up to the fact that some of Tiny township is urbanized on the fringe?

I know we don't like it. Annexation is something that no municipality likes to lose to another, but it has been a fact of life in the province of Ontario, where you have urbans growing. My fear, if I lived there, would be that if it's not faced at some time, and preferably now, it may be worse in the future. I don't know whether that's right or not, of course. I can't foretell the future.

Mr Hughes: No, nobody can, but I guess you all know that Midland was asking for about double what it got.

Mr Eddy: Oh, no, I wasn't—

Mr Hughes: Yes, Midland was asking for double.

Mr Eddy: So this is a—

Mr Hughes: Midland was asking for double and what it gets now doubles Midland's size. Now, I'm not sure that bigger is better, and we can have all sorts of arguments about conglomerates and all that sort of thing, which is neither here nor there. But when you look at the principle of annexing just for the sake of, because something's developed that's close—I live near Steeles. If I go across the street to phone Brampton, it's long distance; if I phone from home it's not. So that argument, if, in principle, it really is the one that should be applied, then Metropolitan Toronto should really be taking over Markham.

Mr Eddy: Well, they did form the GTA, which is a much larger area.

Mr Hughes: That's right, if that principle is a universal principle. Just because somebody builds next to a neighbour and builds the same thing, it doesn't necessarily mean that that neighbour can take it.

Mr Conway: Mr Eddy's point, I think, Mr Hughes, has to be underscored that it has been the experience of countless communities across Ontario that you did have what is essentially an urban fringe in a rural municipality, and there has been a mechanism of one kind or another—we saw it in the city of London not too long ago.

Mr Eddy: Sixty-four thousand acres.

Mr Conway: An arbitrator was appointed and the city of London actually got about twice what they were asking.

Mr Hughes: Which was promised never to happen again, as I understand it.

Mr Conway: No, but all I'm—

The Chair: I'm going to intervene. We still have three witnesses. The parliamentary assistant has a brief point.

Mr Hayes: I just wanted to get a clarification from you, Mr Hughes. You just made a comment about Midland actually receiving less than what they asked for. In other words, it was less than what the county called for and you were able to come to an agreement, the two of you worked an agreement out? How did that happen?

Mr Hughes: No. Each municipality was asked for a proposal. Midland's proposal asked for a big chunk of Tiny. What happened was the committee then cut that proposal into half, approximately, and that—

Mr Hayes: At the request of Tiny or the agreement between Tiny and Midland? No? Okay, just—

Mr Hughes: No, I think Midland still wants it.

The Chair: Thank you very much, Mr Hughes, for coming before the committee and for your presentation.

ONTARIO PROVINCIAL POLICE ASSOCIATION

The Chair: I would now call Mr John Miller, the director of the Ontario Provincial Police Association. If I could just, again, remind committee members following Mr Miller we have two further presentations.

Mr Conway: Who are they?

The Chair: Mr John Nidderly, who's a councillor from Matchedash, and representatives from the township of New Tecumseth.

Mr Miller, welcome to the committee and, just to be clear, you're with the provincial police association, not representing the OPP itself.

Mr John Miller: No. That's right, sir, yes.

The Chair: Fine. I just wanted to be clear on that.

Mr Conway: You're the John Miller who's been quoted from time to time?

Mr Miller: Unfortunately, yes.

Interjections.

Mr Miller: Actually, this committee's not bad considering some I have been in front of because of things like that, but anyway—

The Chair: Welcome to the committee. Please go ahead.

Mr Miller: Thank you, Mr Chairman, committee members. My name is John Miller. I'm a director with the Ontario Provincial Police Association. I understand

you have our submissions in front of you. I'll go through it.

We have a couple of minor concerns and I'll go through them. The proposed County of Simcoe Act, 1993, will become effective January 1, 1994, and as a result of this act the boundaries of the towns of Collingwood, Midland and Penetanguishene will expand. These towns currently maintain their own police services but the implementation of the act will require them to significantly expand services for their new areas. These areas are currently policed by the following Ontario Provincial Police detachments: Collingwood is policed by Stayner detachment, Midland by Midland detachment, and also Penetanguishene by Midland detachment.

The proposed act is silent on the logistics of transferring the responsibilities and the expansion of the services to police the newly acquired areas.

1710

The Police Services Act, specifically section 40, addresses the issue of employment for municipal police officers whose service is absorbed by the Ontario Provincial Police. Unfortunately, the act does not address the opposite of these circumstances that occurs when an area that is currently being policed by the OPP is taken over by a municipal police service.

The Ministry of the Solicitor General is developing policy which, when formalized, will regulate the transition of municipal police officers into the Ontario Provincial Police. The general policy now is that the Ontario Provincial Police will hire all serving municipal officers when an absorption takes place. These officers are initially hired at the constable rank; however, appointments at higher ranks are possible when warranted and after evaluation. These officers receive the salary and benefits provided in the current contract of the Ontario Provincial police. The pensions of these officers are also reviewed and agreements are worked out to merge the pension benefits and previous contributions with the current Ontario Provincial Police pension plan. The Public Service Act provides that all new employees are subject to a probationary period of one year; however, this may be reduced at the discretion of the commissioner.

The act is scheduled to come into effect on January 1, 1994. There are no provisions in the act to transfer the policing responsibilities of the presently policed Ontario Provincial Police areas to the statutorily identified police services that will begin to police these areas.

Our recommendations are:

(1) The police services of Collingwood, Midland and Penetanguishene offer any positions which result from the implementation of the county of Simcoe Act in the following manner:

(a) Members of the Ontario Provincial Police sta-

tioned in detachments which lose responsibilities to the aforementioned services be given the first opportunity for employment to the positions which are created.

(b) The policy of the Ontario Provincial Police with respect to municipal amalgamations and the intake of officers be applied to these new positions.

(2) Clauses be designed and placed into the County of Simcoe Act to identify the responsibilities which will be transferred with the implementation of the act and the effective date on which they are to be instituted.

The Chair: Thank you very much. With questions, Mr Wessenger.

Mr Wessenger: Thank you for your presentation. I can certainly understand your wish for reciprocity. I'm wondering if you could perhaps enlighten the committee with respect to the south Simcoe situation. I know in south Simcoe, in the town of Bradford West Gwillimbury, initially the old West Gwillimbury area was policed by the OPP and the town of Bradford was policed by its own municipal force. The decision was made to have the municipal force extend to the whole area. I don't know whether it's occurred yet, but when that does occur, have arrangements been made to ensure that the OPP officers who serve that area will have the opportunity to serve in the municipal police force?

Mr Miller: The only thing I'm aware of is that there was a verbal agreement between the chief of police and our branch that looks after municipal takeovers that, if there were any positions available, they would first go to the officers stationed in the Bradford detachment. To the best of my knowledge, they didn't take on any additional officers to police this expanded area. I believe that had something to do with their costing, but I'm not sure.

Mr Wessenger: Right, so there was an informal arrangement.

Mr Miller: An informal arrangement, yes.

Mr Wessenger: Because, in discussing with some of the local OPP people down there, they indicated before it occurred that they felt that opportunity to be available.

Mr Conway: Following on Mr Wessenger's point, maybe just a comment to the parliamentary assistant: It seems like quite a reasonable position. I'm wondering, has the department given any thought to some kind of arrangement, informal or otherwise, to accommodate the point Mr Miller has made here?

Mr Hayes: Yes, we are, Sean. I would like, just so the record is straight, to have Mr Griggs address that issue, because there are steps that are being taken.

Mr Griggs: I'm sorry; as I was consulting with my colleagues on another matter, I wonder if you could repeat the question.

Mr Conway: I have two questions, one for Mr

Miller, but one really for the department. It seems to me like a reasonable request. It doesn't need to be commented on now, but has there been any thought given to some kind of arrangement to accommodate the request for reciprocity?

Mr Griggs: We have had discussions with the Solicitor General throughout the drafting of the legislation implementing county council's recommendations. In fact, there was some discussion as to the continuation of OPP policing in these areas at full cost recovery, which is at the Solicitor General's request. In other words, the town would contract OPP policing in that area. That was the arrangement that was discussed and that's the current situation for south Simcoe. In terms of the towns assuming police responsibility for those areas added to the towns, it was indicated to us by the Solicitor General that the Police Services Act requires that those municipalities police those areas, so in fact if the towns are going to have the benefit of that assessment, they have to provide the services.

Mr Conway: I think that's understandable. I think what Mr Miller is making as a point is that they have the responsibility, that's agreed to; it's just a question of the person power.

Mr Griggs: In terms of displaced OPP officers?

Mr Conway: Yes.

Mr Griggs: That issue has been raised by the Solicitor General and there are some ongoing discussions. It's our feeling that there are provisions in the act for the protection of employees, and I can refer you to the specific section if I just have a second.

Mr Conway: If you want to take that for a moment—a quick second question. It has to do with the Oak Ridge facility. Yesterday the mayor of Penetang, I think, raised with the committee a concern that if they were to as a—I think it was the mayor of Penetang, Mayor Klug. He said that their concern was that if that facility, which is now really the responsibility of the OPP, were to fall within the jurisdiction of a small municipal force like, I guess, Penetang, or Midland for that matter, that it could cause some concern, theoretically. Is there any thought on your part about that or is that just so unlikely or theoretical as not to be an issue?

Mr Miller: I guess I have the benefit because I was also stationed at Midland detachment and had to answer calls to that facility. I believe at one time—and we may still have, I think—we had three officers committed to answer calls for service from that facility, and if something else comes up of an emergent nature then other officers will be required. I guess this is one of our concerns: As of January 1, if Penetanguishene doesn't have the manpower to provide services to that area and calls for services are received, who responds?

Mr Conway: My thought on that would be that that is a very unique provincial facility. It seems to me that

my advice to a minister would be, or to any government, that the policing responsibility for Oak Ridge should attach to the Ontario Provincial Police and should not be delegated. I take it you wouldn't object to that.

Mr Miller: No. We wouldn't object to that.

Mr Owens: Just a quick point of clarification.

The Chair: Just a supplementary.

Mr Owens: Just in terms of your experience with the facility—I think it was the mayor of Penetang who talked about, if in fact there was an incident, it would tie up his 10-member force—have there been a number of incidents where that type of response has been required? What has been your experience with that particular facility?

Mr Miller: Yes, I've been involved in incidents where we required help from neighbouring detachments; Midland didn't have enough officers to respond. Most of them proved to be unfounded, but you still have to respond to the initial incident as if it were real.

Mr Owens: So would you agree that the mayor's recommendation to this committee is a reasonable one, that the OPP retain control over that particular facility?

Mr Miller: I don't know who's going to retain control, but he does have some reasonable—

Mr Owens: Or the policing function around the facility.

Mr Miller: There are some concerns with it, that they're valid.

Mr Owens: Sure.

The Chair: A clarification, Mr Griggs.

Mr Griggs: I should point out again that the Solicitor General has indicated that the Police Services Act is very clear that a town/municipality, unless there is a regulation passed to make other provisions, has to provide policing to the area of that municipality. In the case of Penetanguishene, I just want to make it clear that it would be an exception that would be made for this.

Mr Conway: I understand that, but from what I know, I think that's probably a place where I would want an exception made.

Mr McLean: Thank you, Mr Miller. Has there been any studies done that you're aware of with regard to the amalgamation of the Midland and Penetang police forces, the costing of that? Has there been a costing done by the OPP of what it would cost them if they took over the policing of both of those municipalities?

Mr Miller: I understand there was a request put in, but we have seen nothing of a request for a costing from Penetang and/or Midland come in. I understand there was, but where it's ended up, I have no idea.

Mr McLean: So you're not aware of it. Thank you.

The Chair: Mr Wilson and then the parliamentary assistant for a final one.

Mr Jim Wilson: I think with the Oak Ridge situation, the mayor pointed out and it became quite clear that one of the problems with this legislation versus Bill 177, which restructured the south end, the south end legislation contained unconditional grants to the municipality for a period of five years to at least cover, on a sliding scale, partial costs of the policing. This, as you point out in your submission, is silent on policing. I think the problem Penetanguishene has is that it either has to expand its municipal force with no compensation from the province, so the taxpayers there have to pick up the tab—it's part of the downloading scenario and part of the cost of restructuring that isn't talked about enough, I don't think—or he did mention: "Well, we're not sure. Maybe we'll contract with the OPP." But then again, they don't get compensation. Have you had discussions with the province with respect to compensation packages? It seems to me that to the tune of hundreds of thousands of dollars, the province gets off the hook on policing with this particular bill.

1720

Mr Miller: We haven't, because I'm an association rep. I know force management has had discussions concerning costings or the payback situation, but I'm not aware of it.

The Chair: Thank you very much, Mr Miller, for coming before the committee today.

Mr Hayes: Excuse me.

The Chair: Oh, sorry. I promised you, didn't I. I apologize.

Mr Hayes: That's okay.

Thank you, Mr Miller. How many OPP officers do you have now who cover Midland, Penetang and Collingwood?

Mr Waters: What time of the year?

Mr Hayes: You could give me both.

Mr Miller: I'm not sure. I believe Midland has a complement of around 50. That's civilian support staff included. In the Stayner detachment, I believe there's somewhere in the neighbourhood of 25 or 30. Mind you, we have problems with those detachments. As it is now, the association's opinion is that we're short-staffed. My present posting is Wasaga Beach, and we don't have nearly enough personnel to handle that area.

Mr Hayes: How many officers would be affected by this restructuring? Would you have that figure or an estimate of that?

Mr Miller: I would say probably 100; approximately 100 officers would be affected by the amalgamation. Now, how many positions we would lose, I have no idea because, like I say, those detachments are running short-staffed now. With the amalgamation, it may work

out that some of the detachments now, with a reduced workload, could handle the workload with the manpower they have.

The Chair: Thank you very much. We won't make any comments about the fact that one of our committee members is within your jurisdiction. We're sure that he's a law-abiding citizen.

Mr Miller: As far as I'm aware.

TOWNSHIP OF MATCHEDASH

The Chair: Our next witness is Mr John Niddery. Is he here? It looks like perhaps we have two John Nidderys. Would the real John Niddery please introduce himself and his colleague. Welcome to the committee.

Mr John Niddery: I'm John Niddery, councillor with the township of Matchedash. I'm very pleased to introduce my colleague, Deputy Reeve Phil Sled, who will start the presentation.

The Chair: Welcome to the committee.

Mr Phil Sled: On behalf of the council of the municipality of Matchedash, I would like to thank this committee, with special thanks to our member of Parliament, Mr Dan Waters, who has helped us through this process so far, listening to our present concerns that have surfaced as we work through the restructuring process.

A brief history: Our council is generally satisfied with the new proposed township of Severn, and we initiated joint council meetings between the councils of Coldwater, Orillia and Matchedash back in the fall of 1992 to work towards this goal. At this time, monthly joint council meetings were running smoothly until we learned that one of our new equal-partners-to-be had in place eight unusual employee contracts that were put in place back in 1991. Our question today to this committee is, how can our municipality or any other new municipalities being created by the restructuring process be held financially and morally responsible for another municipality's employee contract or contracts? That's the number one issue.

Another major concern of our municipality is the question of funding for projects such as, in our instance, what we feel should be a new centralized administration centre. It is our feeling, and this is strictly the municipality of Matchedash's feeling, that Orillia township's administration centre will eventually become part of the city of Orillia. Furthermore, it needs to be more centrally located to the new municipality of Severn. Our question is, when and where will funding become available for these newly created costs that restructuring has put on our municipality?

Matchedash did present a more detailed submission there. At this time I'll pass on to my colleague, the real John Niddery.

Mr Niddery: One of the wonderful goals of the Simcoe county study was described in criterion 3 that

you have heard described earlier in testimony this afternoon. Criterion 3 is that one of the laudable goals was to attempt for watershed management to include, when possible, watersheds in one new municipality.

We're very pleased that by a blending of real estate from three municipalities—Tay, Matchedash and Orillia townships—we have covered the south shore of the Severn River. We were so enthusiastic about this that we named our new township after that famous watercourse.

We would like to support the Orillia township submission that you heard this afternoon, and also that from Mr Thiess in Orillia yesterday, for the importance of including the headwaters of the North River watershed in our new municipality of Severn township.

I have some background material that I'm going to leave with the secretary, fact sheets that make you more aware of what a unique watershed the North River is. We have an international project in Matchedash Bay that is under way right now to enhance northeastern North America waterfowl habitat. Canadian, provincial and federal money is going into this in a big way. This is the mouth of the North River watershed.

We also have an international project in Severn Sound to improve the water quality in Severn Sound and on the watershed of Severn Sound. I've given you a brief on that RAP project that also has maps indicating that certainly in the eyes of RAP—and I sit on their committee on behalf of the township—Bass Lake is part of the North River watershed. I'm going to leave those with the clerk and hope he shares that with the committee.

The Chair: Could you explain RAP?

Mr Niddery: Remedial action plan. This is a Great Lakes joint water quality commission project. There are a number of them on the Great Lakes. Severn Sound is one of the 27 sites, I believe.

We'd also like to speak in favour of Orillia township's submission and Gary Thiess's submission and Jack Fountain's submission and Edward Carter's submission concerning the lands known as south Orillia township. We believe the new municipality of Severn township is going to sorely need the assessment from that area. We heard from Edward Carter that the people in that area seem to support staying in Severn township.

We also support Reeve Gowanlock's comments that if indeed these citizens do have to be disrupted, if they can't go where they want to go, which is with Severn township, they be allowed to go with the city of Orillia and get the pain over quickly.

The last item I'd like to comment on is the weighted vote, the plurality-of-vote question that came up briefly in the last day or two. We're very pleased and congratulate our partners in restructuring Orillia township to hear that they've reconsidered their thoughts on the plurality

of voting, because we have been functioning quite happily together as a restructuring group with a one vote, one council member position. We certainly strongly support that the intent in the act is carried out.

The Chair: Thank you very much. We'll go right to questions.

Mr Hayes: Can I just—

The Chair: Just a clarification?

Mr Hayes: Yes. Thank you for your presentation. You had two questions, one about the employee transfer—sorry, I didn't hear it all. The second one, I didn't hear any of it because I was over getting the expert. I'd like you to ask, if you will, those questions again, and Mr Griggs will respond to them.

Mr Sled: Number one was the employee contracts that one of our municipalities that we're entering into has in place. We feel that we're not responsible for initiating these contracts originally. Why should we, when we're into the township of Severn, be faced with handling these contracts?

1730

Mr Niddery: I'd just like to add to this that these are very unique and unusual employee contracts.

Mr Griggs: I'm familiar with the contract I think you're talking about. It's a contract involving the township of Orillia and some of its employees, I believe.

Mr Niddery: That's our understanding.

Mr Griggs: Okay. The reason the new municipality has to assume these contracts is because the new municipality is a combination of the three existing municipalities. So in fact not only does the new municipality have to assume the contracts of the township of Orillia, but all contracts between the other two municipalities and their employees.

Mr Niddery: This is well and good for a civil servant to respond this way instead of an elected official who is responsible to the ratepayers. These contracts are so unusual that they would be the envy of the president of General Motors of Canada, and certainly even our friend the Toronto Harbour Commission that has been in the paper would be envious of some of the unique terms and conditions in these contracts. So we really don't feel as a council that we can accept that as an answer, and we will not be responsible to our ratepayers for the financial and moral implications of accepting these.

Mr Griggs: Well, as I said earlier, we're aware of the situation, and certainly if you wanted an amendment brought forward to the bill, I'm sure you could ask one of the members of the committee to do so, to deal with that issue.

Mr Niddery: We have done that, thank you.

Mr Griggs: Okay.

Mr Eddy: Could I ask a question about that for clarification? Have you asked a member to present an amendment to take care of this? Did you say you have asked a member?

Me Niddery: Yes.

Mr Eddy: I can't understand what the amendment would be. I'm trying to think if there has been any case where there was a legal contract or agreement that will not be assumed by the new municipality. It's a very difficult one. I realize why you're raising it, of course. I would as well.

Mr Niddery: We can't imagine the unique nature of this contract. Certainly in North America it would be a rare case. If you were familiar with the contract, I think you'd understand our point.

Mr Eddy: Well, I can imagine. But on the other hand, if it's a legal contract and it's a contract signed by the present council, it really presents—

The Chair: I'm wondering, Mr Eddy, if we need to see the amendment, and then we can discuss it with more facts at our hands.

Mr Eddy: Yes. Wow, that's difficult.

Mr Waters: I have a couple of questions, because we've talked about a lot more than just the contract. I am at present looking at how we're going to word that. Yes, it is me, and I will be bringing something forward.

But the road: You and Orillia township have need for a road, I believe. That somehow connects you so that you almost feel like you're part of the family.

Mr Sled: Exactly. The road has got to be there. That's all there is to it. It was mentioned today by Reeve Gowanlock of Orillia township that West Street would be the ideal location for the road to be improved into the municipality. We have no problems with that, but we do have problems with the fact that the administration centre is located so far out of proportion to the new municipality that we feel it should be looked into at least. We did bring a motion to joint council to look into a study of where it should be located; nothing really specific. Needless to say, the motion was defeated because it was felt by members that the new building was recently built and would provide the services for the new municipality.

Our concern is that if the city of Orillia expands, which it will, it will take over that building, but it's just a concern of ours. We would like to know where the funding would be coming from, and when, for this new facility.

Mr Waters: It's something that indeed we'll have to deal with as we go through clause-by-clause; that's where some of this is going to come from.

There was one other one, and I dread to get into it. I was hoping John would bring it up, but I will bring it up on his behalf. I have a note here from you, John—

actually, from the reeve, I think; I'd better make sure; yes, it's from Marion—about the social contract. You're not sure whether you have to do two or one. You needed some clarification. Could you comment? Partially because you are a very small township, people should understand that to go into Matchedash—and Al and I go through Matchedash quite often—it is sparsely populated and doesn't have a lot of money. You have done very well for the people you've represented for a long period of time, and you're concerned about the cost of doing two.

Mr Niddery: Yes, the social contract certainly has been a concern for us. It's linked with restructuring and the salary levels of employees going into restructuring. We've run a very modest operation, debt-free for many years. We have reserves. We have an electorate that is pretty satisfied with our services, although some more sophisticated areas might look down their nose at our operation. Certainly the salary levels of our employees have been very lean and mean and are going to cause complications as we go into the new, larger municipality, because of the huge differential in salaries among the three partners.

Mr Waters: Can I just have one last quick one? I haven't had a chance to ask John, and I forgot at the last meeting or so that we had. In one of our very early meetings, you had mentioned that there was concern in the township about fire stations, either you or one of the councillors, and I can't remember who it was; it was one of those meetings when I was there in the evening. I'm wondering if the fire coverage is resolved.

Mr Niddery: I think there was perhaps a tendency to try to discount our fire department, which is an entirely volunteer force. I think, by working with our partners, that's a fairly happy situation, wouldn't you say, Phil? Reeve Gowanlock, or perhaps it was Ron Stevens, commented about the road we need through the centre of the municipality, and certainly that would make our fire coverage a much better situation. We are going to need that capital, and I'd certainly hope the government looks upon our request, because it will be coming, with a lot of warm feeling.

Mr Waters: You have the feeling that the \$2 million for the north Simcoe restructuring isn't going to work out right? Okay.

Mr McLean: You have about 500 year-round residents. What would your population be in the summertime? You have a lot of cottage development all along the Severn shore.

Mr Sled: We have 1,066 households, I think it is; 1,065 or 1,066.

Mr McLean: That's counting the cottagers?

Mr Niddery: Sorry; 1,036 total households.

Mr Sled: As far as the total population is concerned, it's hard to pinpoint exactly how many.

Mr McLean: That's total cottages; is that what you're counting?

Mr Niddery: Yes.

Mr McLean: The question I wanted to ask was that the reeve of Tay made a very strong presentation yesterday with regard to the eastern boundary of that township. He would like it to remain as it was. There was a lot of discussion with regard to the road and with regard to the Matchedash watershed. Can we have your opinion on what you think?

Mr Niddery: Criterion 3 has been met, by taking that Tay property on the Severn River right up to Port Severn; that's the property we're talking about. Certainly this very unique project for North American wildlife habitat restoration, which is the Matchedash Bay, most of it is in Tay right now, although maybe a third of it is Matchedash right now; maybe it's two thirds. But again, to meet the requirements of criterion 3, in the council of Matchedash's opinion it was a very good thing about restructuring, to get that huge Matchedash Bay marsh, a unique jewel in wetlands in North America, under one municipality's jurisdiction and also under the jurisdiction of the municipality or city that is in control of the North River watershed, which flows into Matchedash marsh.

1740

Mr McLean: There's not a big population being added in that area—100 or 150.

Mr Niddery: No, it's very small. In fact, it was brought to joint council's meeting quite recently that there's an unregulated subdivision in there that wants a municipal road put in. Our modest estimate, I think, was about \$1 million, and of course we're not that excited about it. We firmly believe that for the Severn River integrity and also the North River watershed and the Matchedash Bay project it is a good decision of the restructuring study to include that in Severn township.

The Chair: Thanks very much for coming down to the committee this afternoon. We appreciate it.

Mr Niddery: Our pleasure. Thank you.

Mr Conway: I think it's a wonderful name, Matchedash. It sounds like something from a Margaret Laurence novel.

Mr Niddery: We like it. My understanding is that it's indigenous for "bad and swampy land," and there are spots, but we love it anyway.

Mr Conway: It's a great name; I think it's wonderful.

Mr Sled: Eighty-eight per cent is crown land.

Mr Conway: It sounds like Renfrew county.

TOWN OF NEW TECUMSETH

The Chair: I'll then call our last witness, the representatives from New Tecumseth.

Mr McLean: What time are we meeting in the morning, Mr Chair?

The Chair: At 10, but we'd like to just have a brief discussion at the end of this presentation about tomorrow.

Mr Jim Wilson: Mr Chairman, can I just give a preamble to this presentation?

The Chair: Yes. Please be seated. Mr Wilson will make a comment and then I'll ask you to introduce yourselves. Could I just say, before Mr Wilson begins, could committee members stay just so we could talk a bit about how we're going to proceed tomorrow? We have a lot of work and it would be appreciated. If you have to leave, can somebody phone you and tell you what's going to happen?

Mr Jim Wilson: I just want to thank the presenters in advance. You have before you Brian Gauley, who is director of personnel and community services for the corporation of the town of New Tecumseth, and Joan Sutherland, who is the county councillor and deputy mayor of New Tecumseth. The reason I just wanted to say something is that I don't know whether members would still be carrying around the August 18 submission. I found it was necessary to ask the presenters to make an oral submission. Otherwise, we wouldn't be able to deal with this in this committee. I'll ask the presenters to go ahead.

The Chair: Thank you. As you note, we do have the submission, but it's likely that not everyone has it here. We have a couple of extra ones handy for this afternoon. Please go ahead.

Mr Brian A. Gauley: Thanks, Mr Chairman and members of the committee. We will be brief. Our purpose this afternoon—we'll be brief—is to make two points about the past two and a half years since the amalgamation of the town of Alliston and Beeton, Tottenham and the township of Tecumseth, from which the new name is derived, with our eastern boundary. Under Bill 177, the eastern boundary of New Tecumseth was moved two lots west of Highway 27. Highway 27 had been, prior to the amalgamation, the easterly boundary for the township of Tecumseth. We, in 1991, made representation to the Minister of Municipal Affairs, Mr Dave Cooke, and there was also a presentation made at the county restructuring committee, with regard to the eastern boundary, of course to no success.

Council wishes to have that looked at again and feels that the eastern boundary should be Highway 27. The principle given to us at the time as to why it was two lots west of 27 was that the highway should not form a boundary. I don't believe those principles are perhaps being followed evenly in the balance of the restructuring of Simcoe county.

The other point is the boundary in the southwest area of—we'll call it former Alliston—and it's between what will be Adjala, Tosorontio and New Tecumseth. Lands south of the 30 Side Road had been originally intended

by the county restructuring committee to come into New Tecumseth. It was agreed that we would not change the boundary to the south of 30 Side Road and that those lands would remain within Adjala township and the soon-to-be Adjala-Tosorontio.

However, there was a small parcel north of 30 Side Road and Lot 31, Concession 7, a small parcel of approximately eight acres, that was included to come in with the lands south, but with removal of the land south of 30, the eight acres north were also removed. The inclusion of it in New Tecumseth would basically square off the planning area in that part, and it's requested that the eight acres north of 30 Side Road be included in New Tecumseth in the soon-to-be-passed bill.

That's all I have to say.

The Chair: Would you care to add anything?

Mrs Joan Sutherland: The only thing I'd like to add is that this was our only major north-south corridor, which we lost, but the main reason that we fought so hard is because the people in that area feel so strongly that they would like to stay in New Tecumseth.

Mr Jim Wilson: I guess I'll begin the questioning. I would appreciate it if members would look at this map, because it does seem a bit silly, given that when you look at the rest of the restructuring that's going on and you look down here; the easterly boundary of New Tecumseth used to be Highway 27, when it was Tecumseth township. I have no other way of saying this, except that for a political decision that was taken at Municipal Affairs, it moved the boundary, when it restructured and formed New Tecumseth, two lots west of the highway. Members will recall that back on June 4, 1992, this matter was debated in the Legislature in a private member's resolution. I don't think we really came to any particular conclusion with respect to that resolution. The residents along this area continue to complain to me that they don't want to be in Bradford West Gwillimbury. Their natural and historic affiliation, for the vast majority of them—in fact, I'd say about 99% of them—is with New Tecumseth, with the Beeton area. My own family at one time owned a farm and my great-great-grandfather farmed out in that area. They always went to Beeton, which is this way, for members' information.

What we have is a case of, as far as we can tell, with some of the other witnesses that have appeared, the principle that you can't have a highway as a border line seems to have been abandoned. That's why we're taking another stab at this.

I don't see why, and you'll recall I asked the warden if he had any personal objections to sharing that highway. I think right now—and I'd ask Mr Gauley in the form of a question—are the snowplows coming across Highway 27 and over to lots, turning around and going back?

Mr Gauley: Yes. We do have reciprocal agreements or arrangements with regard to the roads.

Mr Jim Wilson: So with respect to servicing the road, you've got trucks from Bradford West Gwillimbury having to cross the highway each time on several side roads.

Mr Gauley: Yes, 20 Side Road, which is within New Tecumseth, so they're coming in five lots.

The Chair: Just for clarification, that line extends from Cookstown. Does that go up to Newton Robinson?

Mr Gauley: Yes.

The Chair: I just want to be clear—along 2?

Mr Gauley: It goes from the south border of Cookstown right down to Highway 9. It used to follow the highway.

The Chair: It's the whole of two lots over?

Mr Gauley: Right down. We do have, as I've mentioned too, people with split properties. Their actual properties are in two jurisdictions.

Mr Hayes: I just wanted to get a clarification, because Highway 27 splits the two hamlets of Bond Head and Newton Robinson, and so what you're proposing is that the boundary between the two municipalities now be moved back to Highway 27, which would split those two communities again.

1750

Mr Gauley: Essentially, it would, yes.

Mr Hayes: That's what I wanted to know.

Mr Jim Wilson: You raise a good point, Mr Hayes, because I know one of the principles is to try and keep hamlets one way or the other if they're split. But I'll tell you, and we raised it last year in the House and I brought forward all of the evidence, that people in Bond Head and Newton Robinson who were on the Tecumseth side of the highway are quite happy being split. To them living there, that was always a natural boundary. They knew they were on the west side of Highway 27 and they naturally and historically gravitated towards Beeton and westerly and everybody on the other side of the highway.

I guess there's a lot of resentment there for a government to come along, like the government of the day, and just arbitrarily move them all into Bradford West Gwillimbury when they didn't want to go. They were quite happy with the highway going down the middle of these very small villages, hamlets, and there was never any problem with that. It seems to me we've got a little off our social theory when somebody in Toronto, with all respect, decided that was a problem. I'm not even aware of service problems with respect to the split jurisdiction; Newton Robinson or Bond Head, for example. We have more service problems now when you've got in several places snowplows crossing the highway to do two lots and come back. I mean, it's

absolutely crazy. I've had complaints about plows not being able to turn around on some of these roads.

Mr Conway: Jim, do we know what the attitude of the municipality of West Gwillimbury and Bradford is? Do they have a view on this?

Mr Jim Wilson: I assume they do, but I'll ask Mr Gauley to inform us as to efforts that have been made to try and talk to them about this.

Mr Wessenger: If I can just indicate that, certainly, I have discussed the issue with the town of Bradford West Gwillimbury and it's opposed to having a forced restructuring because the restructuring that was done by the previous government—and this would be a forced restructuring. I think it's kind of interesting that Mr Wilson's private member's bills are opposed to forced restructuring and in this case he's suggesting that we do it by one municipality over the other.

Mr McLean: But they want to vote on what happens in the north part, don't they? They want to vote on the rest of it.

Mr Jim Wilson: Mr Chairman, if I may rebut, this whole thing is forced restructuring. My bill dealt with the north end of the county to ensure the municipalities weren't structured against their will. My subsequent resolution dealt with this particular problem on Highway 27.

I don't know. I think they need a political solution here if you've got one party that's not willing to discuss it in a rational way. Why would Bradford West Gwillimbury want to give it up, is the commonsense question you have to ask. They've got Highway 11 as a development corridor and they now have all of Highway 27 as a development corridor and, as Mrs Sutherland has said, New Tecumseth has no north-south corridor. You know, we've got Honda in this area, which tries to make its way down to Highway 9 to do its trucking. We have no development possibility along the ditches on the easterly boundary of New Tecumseth.

I guess my plea to committee members is that common sense tells you a mistake was made and I think Bernard Grandmaître, the Minister of Municipal Affairs for the Liberals, indicated in his debate of June 4, 1992, that he felt it was a mistake and that he supported my resolution. That was the government that did it. They said, "Yes, it doesn't make much sense the way it's worked out," especially when you have people with split properties and that.

Mrs Joan Sutherland: Mr Chair, could I add something?

The Chair: Yes.

Mrs Joan Sutherland: We've even offered to buy it back from Bradford West Gwillimbury but on the idea of splitting a community, our west boundary splits the community of Colgan. We had a meeting. We were willing to give that little piece to Adjala. We had a

meeting with the residents. They did not want to go to Adjala and Adjala agreed, so our west boundary splits Colgan.

Mr Jim Wilson: Even after this restructuring.

Mrs Joan Sutherland: Yes.

Mr Jim Wilson: I can assure members, it's not a problem with the people who live in these split communities; it was always that way. You always had the road going down the middle of the community, and that was the split.

Mr Conway: But we have a problem with the municipality in which it is now resident. I'm sensitive to what you say, Jim, but it's just like—

Mr Jim Wilson: But if you can't get them to discuss it—

Mr Larry O'Connor (Durham-York): Was there a public meeting for this? Was there public support, then, for a change back?

Mr Jim Wilson: There was public support for a change back. In fact, that's where the idea came from. There was a meeting in Bond Head where I think 200 residents, which far exceeds the population of Bond Head, came out demanding this be changed. Again, you have to remember that the south Simcoe restructuring occurred a short time before the 1990 election. We were well into that election campaign, I think, before people realized they were restructured, because it was an issue at the doors. A lot of people started getting their tax bills or something and discovered they were actually getting bills from Bradford West Gwillimbury and they said, "I thought I lived in New Tecumseth."

Mr Conway: But this is a very good lesson, it seems to me, in this committee about what we ought to do with respect to some of those boundary issues before us because, as has been commented here earlier today, the way I understand this process, and I'm no expert, is that once Bill 51 is passed and the boundaries contained within it are in place, under the current regime, the only way they get changed is by some process of mutual consent.

Interjection: Or boundary negotiations.

Mr Conway: Or boundary negotiations. So, I've got to tell you, as we get into tomorrow—and when I hear this kind of a story, I want to think very carefully about what kind of decisions we might want to recommend around some of the evidence we've heard.

Mr Hayes: I think I'll have Mr Griggs address that but, first of all, I think the difference here is, and I think it was stated—I'm not picking on the previous government, but I think at that time what happened, and what was stated here, if I heard it correctly, was that the province came in and arbitrarily did that and we're doing the opposite to that today.

Mr Jim Wilson: We're just putting it—

Mr Hayes: I'm just making that clear.

Mr Jim Wilson: But, Mr Hayes, I guess the point is, we're just putting it back to where it was and always has been. It's a chance to correct a mistake. The previous government on the public record just said there is no rhyme or reason for going down the ditch. You've got to live there. It goes across fields. It doesn't make any sense whatsoever.

Mr Hayes: If Mr Griggs could clarify it, maybe it'll help out the committee.

Mr Griggs: I just wanted to point out, regarding the municipal boundary negotiation process, that process applies to all municipalities in Ontario except municipalities within regional governments and in those cases it only applies when the minister deems the boundary adjustment to be minor. So saying that once these boundary changes come into effect under Bill 51, the only way they'll be able to do it is through mutual consent—that's the case anywhere else in Ontario.

Mr Eddy: Except London-Middlesex.

Mr Conway: The point I want to make is that we have to understand that once we draw these lines they're going to stay that way for a while. There are ways to change them, undoubtedly, but I tell you, listening to this story—and there seems to have been a mistake or God knows what was done improperly. I've got to believe what the member for Simcoe West has said, although the member for Simcoe Centre has some things he, I'm sure, wants to add. But as we head into the final phase of this thing, I want to make sure that we do—

The Chair: Mr Wessenger wants to say something. I think the issue is clear and I'm not sure how—we're going to be dealing with this tomorrow, but Mr Wessenger—

Mr Wessenger: I'd just like to ask for some clarification because, as I understand the rationale of the planning principles involved in setting that boundary, one of the principles involved in the study was that highways should not—other than controlled-access highways—form boundaries of municipalities. Whether it was the right decision or not, I won't comment on that, but to say there was no planning reason for it I think is wrong and I'd ask staff to just clarify that that in fact was the planning criterion we used.

Mr Griggs: The reference to controlled-access highways or roads not making good boundaries unless they're controlled-access highways—that was one of the criteria the county study committee used in looking at the restructuring of the county of Simcoe. I believe what we're discussing were decisions that were made regarding the south Simcoe restructuring that occurred on January 1, 1991, and is a separate process from the county study. It's my understanding that there were planning principles used in arriving at the boundaries

for south Simcoe but, again, I can't speak to that study. I'm not familiar with it.

Mr Wessenger: It would be fair to say, though, that since—just to confirm this—the county of Simcoe used that as a planning criteria, it would be a fair assumption that the province would have used the same planning criteria.

Mr Griggs: Yes.

The Chair: I think we've had a good discussion and the issue is clear. We will be dealing with it—

Mr Jim Wilson: There's a second issue—

The Chair: No, I realize there's a second, but we are at, as the Speaker in the House would say, 6 of the clock. I wonder if there are some questions on the second issue that has been raised. Could we deal with that because we, I think, do need to move on. Mr Wilson, just on that second—

Mr Jim Wilson: If members look at the second page, just to make sure it's clear, it's this little map down here. When they talk about squaring off, you see the town of Alliston and there's this eight acres here that should be in the town of Alliston, or now New Tecumseth. When the maps came out for this restructuring, it ended up in Adjala. I gather, and I'll ask Mr Gauley to further clarify, that this is somehow just a mistake more than anything.

1800

The Chair: Can we just be clear?

Mr Jim Wilson: On page 3, you have a map.

The Chair: Yes, in the bottom right, the section of land above, I guess, the road. Is that it, where the arrow is?

Mr Jim Wilson: In that little corner where the arrow is—that represents the eight-acre parcel.

The Chair: And that piece of land currently is where?

Mr McLean: Adjala township.

The Chair: It's in Adjala and the request is that it go with Alliston.

Mr McLean: Right.

Mrs Joan Sutherland: New Tecumseth.

The Chair: Sorry.

Mr Conway: Is that agreed on all sides? It's just sort of a printing error or something.

Mr Gauley: Well, when the county restructuring committee's report came out, there was more land than that. There were lands lying south of the 30th Side Road. The correspondence which I have to Adjala, signed by the mayor, reads, that "We agree the southern boundary should be at the intersection of the 30th Side Road and King Street South." That meant that what was north should remain as part of the restructuring. Now, I can't confirm it was an oversight, but it wasn't there in the final report.

Mr McLean: Is it built on?

Mr Gauley: There is one residence on it.

Mr Hayes: I'm just wondering, could you get, say, confirmation from the county to the effect that there was actually an error made? I think that would be an important thing to have.

Mr Jim Wilson: He says the error—as my interpretation, trying to understand it, I have to admit that prior to the New Tecumseth submission on August 18, I wasn't aware of this problem. Mr Gauley's just said he can't confirm it was an error.

But it still is unclear to me, Mr Gauley. Again, explain what was on the maps and what ended up in the final report.

The Chair: Could Mr Griggs—he had a clarification.

Mr Griggs: I just wanted to clarify. I've come across one of the recommendations that the county council accepted which was implementing a local—it says a local—I'll just read the recommendation as it was endorsed by county council: "That the locally negotiated boundary adjustments meeting the study committee's criteria be accepted for inclusion as amendments to Simcoe county council's report, namely, Adjala, Tosorontio and New Tecumseth revert to the boundary as described in Bill 177," which is this south Simcoe legislation. I guess what I'm asking for is clarification as well. Was there not a locally negotiated agreement between New Tecumseth and Adjala to revert back to—

Mr Gauley: We brought to the attention of the restructuring committee, I believe it was early this year, this parcel of land here. This was originally all the land to be included as recommended by the county of Simcoe.

Mr Jim Wilson: And that they drop that south of 30.

Mr Gauley: We suggested that the boundary not go further south than the intersection of 30th Side Road, which is this east-west road, and King Street South, okay? This little parcel is north of the 30th Side Road, so all of this was excluded but along with it was this eight-acre parcel.

The Chair: And it's the eight-acre parcel that you're—

Mr Gauley: It is the eight-acre parcel. This land was annexed by the former town of Alliston approximately five or six years ago from Adjala, exclusive of that eight acres.

The Chair: I wonder if at this hour what we might do is ask staff if they could look into that a little more clearly so that tomorrow, when we come to clause-by-clause, we could discuss that in a little more detail, if that is acceptable.

Thank you. You are our last witnesses but by no means least, and we appreciate your coming today with your brief. Thank you.

Mr Gauley: Thank you for listening.

The Chair: Before we adjourn, I just wonder if we could just put heads around tomorrow. We are going to start at 10 o'clock in the Trent Room in the Macdonald Block because of all the construction in the other building, so that's why we're there. Mr Conway, you had a question you wanted to raise.

Mr Conway: Can I just make a suggestion?

Interjections.

The Chair: Excuse me. Order, please.

Mr Conway: This has been a really interesting exercise and I must congratulate the staff and the parliamentary assistant. I think they've done a very good job in difficult circumstances. As you know, I'm not a member of this committee and I've had nothing to do with this bill; I'm just here as a substitute. It's been a very interesting exercise, and I'm quite sympathetic now to the situation in which the department finds itself on the schedule, and there is urgency. This has got to be dealt with, for obvious reasons.

There are a lot of amendments, I presume. I mean, I'm just making a little mental list of who's committed to what. I presume they're all being written, and if it's no problem to get at that stuff tomorrow—that was one of my first questions, because I'll you what my instinct is: My instinct would be to get it done tomorrow, if we can responsibly, because a lot of people have made a lot of interesting observations.

I suspect, knowing what it's like being on the other side of this, that there's probably a lot of midnight oil that's going to have to be burnt to get things prepared, because we're having to go back to Toronto. One of the things I guess I just throw out is, is there going to be any technical problem in getting the amendments just prepared and before us tomorrow?

The Chair: Is the question you're raising whether we can deal with this tomorrow or ought it to be put off?

Mr Conway: I'm happy to deal with it tomorrow, because I understand that there is some urgency. That was my first question. If there's no problem with getting it ready and finishing it up tomorrow, that would be my preference. But I'll tell you, I—

The Chair: On this, Mr Wilson, and then the parliamentary assistant.

Mr Jim Wilson: I guess the question to you, Mr Chairman, is, will the legislative counsel drafters be available to the committee tomorrow? Perhaps they should attend the committee, because some of these may have to be done on the fly. I know we have four or five amendments that we phoned in over the last few days, if they're ready.

The Chair: They will be available during clause-by-clause, yes.

Mr Wessinger: I'm just wondering if it might assist the committee if we dealt with the non-boundary items with respect to clause-by-clause first and deal with the boundary items at the end. I think that would be beneficial to all concerned.

The Chair: That thought occurred to me, that we might consider, and perhaps we would be helped by staff, those amendments that can be dealt with perhaps with some dispatch but then putting the ones that obviously we have seen come up that are going to perhaps be the cause of some debate so we can give those the time they deserve.

Mr Conway: The other concern I had as a substitute is that I have to go to a big public meeting on a municipal matter in my own constituency, which is a four-hour drive from Toronto. So at some point tomorrow afternoon, not any later than 3:30, I'm going to have to leave. That's no big deal, but just listening to some of the other members, I know there are some time pressures. We can't start early? I know 10 o'clock is the time we'd normally meet.

The Chair: Perhaps what we can do is work through or have a shorter lunch break, if that's acceptable, or get sandwiches.

Mr Conway: I'd like to do that, just so we don't—

Mr Hayes: I would like to be able to start earlier, but we do have to have a meeting with the government members prior to that and it's going to be hard for us to get there before 10.

The other thing too—I think it's important, and Mr Wessinger raised an issue here—when we talk about amendments dealing with boundaries, I would suggest that we don't have too many of these, because we have made it very clear that county council had its policy. The Minister of Municipal Affairs has also indicated that was the decision that was made and if municipalities wanted to change any boundaries, the municipalities affected would have to agree with one another. I'm just suggesting that I think I would take Mr Wessinger's suggestion, and hopefully those would be at the end rather than before.

Mr McLean: We may be done at noon then, if you're having a meeting with the ministry before you come to our meeting, because you'll pretty well have your marching orders and it won't take long to do it.

Mr Hayes: No, there will be no marching orders at all, Mr McLean. You've been in government before and I think you know how it works.

Mr McLean: I do; I do.

Mr Jim Wilson: No, you guys have reinvented government.

Mr Hayes: Yes, we've come to the people, Jim.

Mr Conway: Let me be specific. I think there are some very helpful suggestions here. I think Paul's point about getting the non-boundary stuff done early is good. But let me be clear. On the boundary issues, I understand what you're saying, and boy, I'll tell you, I leave here with a—it's been a very interesting, enjoyable, educational experience. I can say that sincerely.

A lot of people have felt that this process hasn't been very good. It will never be perfect, and we've got to wrap it up tomorrow. So I think we owe it to the people who come to us to try to reasonably accommodate their submissions.

I can tell you there's one boundary issue where there have been some discussions, and I want to have a chat about that tomorrow. I'm hoping I don't have to leave, that it's not going full bore at 3:30 and we all have to take off or whatever, but I guess there's always third reading. We can get into it then.

The Chair: Just one last point, the parliamentary assistant, just on the amendments?

Mr Hayes: Yes. I think what we should do is discuss when we're ready to exchange amendments. We have ours all ready except for some that came up today, for example. Do the opposition members have amendments ready? I think we should probably do this to give one another an opportunity to look them over.

Mr Conway: I think section 34 is an issue. I sense a consensus around that. I don't much care who brings the amendment.

Mr Hayes: We will be bringing that amendment, I believe, right? We have that amendment, section 34?

Mr Conway: The Orillia boundary, the Orillia-Oro-Medonte?

Mr Griggs: Yes, for the future review of the city's boundaries.

Mr Hayes: Yes, we'll have that. We'll withdraw that.

The Chair: Could we just—

Mr Waters: Could we adjourn, because we're starting to get into some things that—

The Chair: It is always informal among committees in terms of exchanging amendments. I think if people can do that, let's do it now. It will facilitate. Mr Wilson has provided an amendment. I would think at this point we should adjourn.

Mr Hayes: We're not going to discuss the amendments?

The Chair: No. Let's exchange what we can, but I just—

Mr Hayes: If I may, in the standing orders, it says you have to have the amendments two hours before the committee starts. I don't know how strong we have to be on that.

Mr McLean: Well, we can waive that standing order by 3.

Mr Jim Wilson: They're drafting them now.

Mr Hayes: That's why I raised that.

Mr Jim Wilson: Some of these we just phoned in at noon.

The Chair: May I just say the words of the standing order say "where time permits," so I don't think that's a problem.

Mr Hayes: We have a concern over here, evidently.

The Chair: Yes.

Mrs Linda Perron: What we're willing to do is to provide you with copies of the motions that are presently available so that you could perhaps spend time this evening reviewing them and save time tomorrow, but in order to allow us the same privilege, even though you might not have the actual copies, at least indicate to us what you're going to propose tomorrow.

The Chair: Okay? So we can exchange those thoughts and ideas at the conclusion?

Mr Conway: Let me say one last time while I'm in Simcoe county, because the parliamentary assistant just made the point, and I understand what he's saying and I'm sympathetic to his dilemma, but on this business about the process by which these boundaries were determined, I leave Simcoe county with—in a sense, it's a bit like an Abbott and Costello skit, Who's on First and What's on Second? I don't know who the hell got to first or third under this process. I guess I'll find out before it's all over.

The Chair: In the hopes that tomorrow we will hit a home run, this committee stands adjourned until 10 o'clock tomorrow morning in the Trent Room of the Macdonald Block.

The committee adjourned at 1815.

Continued from overleaf

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

***Chair / Président:** Beer, Charles (York North/-Nord L)

***Vice-Chair / Vice-Président:** Eddy, Ron (Brant-Haldimand L)

Carter, Jenny (Peterborough ND)

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O'Neill, Yvonne (Ottawa-Rideau L)

***Owens, Stephen** (Scarborough Centre ND)

***Rizzo, Tony** (Oakwood ND)

***Wilson, Jim** (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs O'Neill

Hayes, Pat (Essex-Kent ND) for Ms Carter

McLean, Allan K. (Simcoe East/-Est PC) for Mrs Cunningham

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Hope

Wessinger, Paul (Simcoe Centre ND) for Mr Martin

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Griggs, Jeremy, fact-finding officer, municipal boundaries branch

Hayes, Pat, parliamentary assistant to the minister

Perron, Linda, solicitor

Clerk / Greffier: Arnott, Doug

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of Ontario**

Third Intersession, 35th Parliament

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Troisième intersession, 35^e législature

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Thursday 26 August 1993

**Journal
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Jeudi 26 août 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

County of Simcoe Act, 1993

Loi de 1993 sur le comté de Simcoe



Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Thursday 26 August 1993

The committee met at 1022 in the Trent Room, Macdonald Block, Toronto.

COUNTY OF SIMCOE ACT, 1993

LOI DE 1993 SUR LE COMTÉ DE SIMCOE

Consideration of Bill 51, An Act respecting the Restructuring of the County of Simcoe / Loi concernant la restructuration du comté de Simcoe.

The Chair (Mr Charles Beer): Good morning, members of the committee, ladies and gentlemen. We begin our clause-by-clause hearings in Toronto in the Trent Room. I believe everyone has now received all the proposed amendments. I appreciate that we've had to spend a bit of time getting everything in order, and we will now begin to deal with Bill 51, An Act respecting the Restructuring of the County of Simcoe, for clause-by-clause consideration.

I would ask the government to move the first amendment it has at the outset, because it deals with the whole bill. Parliamentary assistant.

Mr Pat Hayes (Essex-Kent): Thank you, Mr Chair. The first motion we have—

The Chair: I'm sorry, do we have that one? I don't have that.

Mr Hayes: Well, let me read it and you'll—

The Chair: Before we do, I think maybe you've got all the copies. We have too much paper. We're all right now. Go ahead.

Mr Hayes: This is dealing with the legal language. I move that the bill be amended by striking out "Oro and Medonte" wherever it appears and substituting in each case "Oro/Medonte."

The Chair: Shall the motion carry? In favour? Opposed? The motion is carried.

Shall section 1 of the bill carry? In favour? Opposed? Carried.

There's an amendment to section 2, a PC motion.

Mr Jim Wilson (Simcoe West): It's subsection (7.1).

The Chair: There are, I believe, five with respect to this section. Could you indicate which one you will begin with?

Mr Jim Wilson: Section 2, (7.1), boundary matters. I move that section 2 of the bill be amended by adding the following subsection:

"Boundary matters

"(7.1) Despite this section, in preparing the schedules under subsection (7) the minister shall ensure that,

"(a) the easterly boundary of the town of New

Tecumseth extends to Highway 27 and includes lots 23 and 24 of the former township of Tecumseth; and

"(b) the boundary between the town of New Tecumseth and the township of Adjala and Tosoronto be drawn so that all of the eastern portion of lot 31, concession 7, lying north of the 30th sideroad and being formerly in the township of Adjala is included within the town of New Tecumseth."

The Chair: Discussion?

Mr Jim Wilson: Mr Chairman, I think we went into this at great length yesterday, just prior to 6 of the clock. I thought that both Mr Gauley and Mrs Sutherland from the town of New Tecumseth enlightened us as to why this line was drawn in the first place. Because some of the discussion centred around the fact that under the current restructuring the rule appears to be that there has to be agreement between the municipalities, I will remind members to set that aside in their heads for a moment, given that under the rules of the south Simcoe restructuring there was no such rule in place when the Liberals restructured the south end; for example, New Tecumseth never agreed that this line should be drawn along the ditches west of Highway 27. If you put yourself in that frame of mind, then the rule that townships must agree does not apply.

Mr Chairman, it may be appropriate, as I think here on the fly, to set this aside, because I am waiting for a fax from New Tecumseth which indicates its most recent proposal to Bradford-West Gwillimbury with respect to buying back this portion of land which historically has always been theirs.

The Chair: I believe as well that at the end of the day yesterday there was some discussion that we would defer the boundary changes and do those at the end and try to deal with the rest of the bill. I'm in the committee's hands, but we did have that discussion. If we stood that down, that might also assist you in the point you just made. Okay. If we stand that down, do I understand as well that we would stand down all the other motions, Mr McLean and Mr Wilson, because they all deal with boundaries?

Interjection.

The Chair: They will be moved later. We will stand down what Mr Wilson has just read into the record and the others will be moved later. Agreed?

Mr Paul Wessinger (Simcoe Centre): Mr Chair, should we also stand down all of section 2, in view of that?

The Chair: That is perhaps the best way. We'll stand down section 2. Agreed? Agreed.

If we stand down section 2, we then move to section 3. I have a government amendment, the parliamentary assistant.

Mr Hayes: I move that clauses 3(1)(a), (b) and (c) of the bill be struck out and the following substituted:

"(a) three additional members who shall be elected by general vote in the case of the township of Tiny and by wards in the case of the township of Essa;

"(b) five additional members who shall be elected by general vote in the case of the town of Wasaga Beach and by wards in the case of,

"(i) the township of Adjala and Tosorontio,

"(ii) the township of Oro/Medonte,

"(iii) the township of Severn, and

"(iv) the township of Ramara; and

"(c) seven additional members who shall be elected by general vote in the case of the town of Collingwood and by wards in the case of all other local municipalities not mentioned in clauses (a) and (b)."

The Chair: Any comments? Mr Wessenger.

Mr Wessenger: I'd just like to express some concern with respect to one municipality that's named here, that is, the township of Tiny having the vote at large. The particular reason for that is that the township of Tiny has a substantial francophone population designated in a particular area, and I have a concern that by having the votes at large we're taking away the representation on the council of that group. As a result of that, I will not be supporting this motion.

The Chair: Any further discussion?

Mr Sean G. Conway (Renfrew North): The member for Simcoe Centre makes a good point, but I didn't hear any evidence on that subject. I know the area reasonably well so I certainly understand what Mr Wessenger has said. But the purport of this is to not accept Professor Ellis's submission that there should be, by legislative mandate, a ward system imposed on Tiny township, taking into account the tension that appears to exist between the permanent residents and at least some of the seasonal residents.

1030

The Chair: Mr Wilson and then the parliamentary assistant, if it's on this point.

Mr Hayes: If I could try to explain so we don't go around the world on this thing, first of all, Tiny does not have a ward system now and actually, if it chose to do so, could apply to the OMB; the residents could petition, as a matter of fact.

Mr Jim Wilson: The parliamentary assistant is correct. I just want to say two things. First, I'm grateful to the government with respect to the request from the town of Wasaga Beach and the town of Collingwood to not impose a ward system there. I would hope that this motion, if it's problematic with respect to Tiny, would

be amended to ensure that Collingwood and Wasaga Beach are able to continue to have elections by general vote. I know we have the agreement of the government on that matter.

With respect to Tiny, to add to that debate, my recollection from a number of the witnesses appearing on behalf of the cottagers' associations is that they wanted a ward system. We heard a lot of unfriendly words used like "nepotism" and "monopolies" and that sort of thing. The cottagers did, I think, bring forward some compelling evidence with respect to their large numbers that in fact a ward system would be to their benefit. I don't have any personal opinion one way or the other. If the government doesn't want to proceed with Tiny in this amendment, that's fine, but I would remind members of that debate.

Mr Allan K. McLean (Simcoe East): I think Mr Ellis made it very clear that they certainly wanted a ward system. I think it was indicated by the ministry that 150 signatures would allow that to happen. I have to consider the fact that Oro township and Orillia township have a lot of waterfront. They have a ward system. I think it would be to the advantage of the municipality to have a ward system, the same as the others. They're going to apply for it within a year through a petition, so maybe there should be serious consideration given to asking them to be part of the ward system.

Mr Hayes: First of all, the county did not want a ward system there, the representatives from Tiny did not want a representative there, and there is a procedure, as I mentioned, that the residents, if they so choose, can petition in a general procedure to do it.

The Chair: Mr Eddy, a final comment.

Mr Ron Eddy (Brant-Haldimand): It's just a question. Then why is Tiny township in the bill as being wards? Was that an oversight or something? It's already in the bill that Tiny township have wards, and this reflects the views of Simcoe county council, I thought.

Mr Hayes: What has happened is that the county actually made a recommendation that all municipalities be under a ward system, and some chose not to be. That's why this is here.

Mr Conway: Now we've got a problem. Let's just think about this. What we've got—

Mr Hayes: If I may, Mr Chair, I'll ask Mr Griggs if he can clarify this.

Mr Jeremy Griggs: The original recommendation that was endorsed by county council was that all of the new municipalities should operate under a ward system, and that's the way the bill was written. Since that time, a number of municipalities wrote to the minister requesting that they be allowed to maintain elections at large. The response, as I understand it, was, "If county council concurs because of this general recommendation

it had made, we will make an exception for you." Tiny, Wasaga Beach and Collingwood all passed resolutions in their local councils that they maintain elections at large and got a motion through county council that the bill be amended to reflect that.

I should also point out that the principle behind the general rule that was endorsed by county council was that where you have municipalities amalgamating, there should be a ward system established to provide for representation to the traditional communities in those areas. In fact, Collingwood, Wasaga Beach and Tiny in all cases are not being amalgamated with other municipalities. In the cases of Wasaga Beach and Collingwood, there are areas being annexed to the two towns; in the case of Tiny, there are areas being transferred to other municipalities.

Mr Conway: I appreciate that, but I think the question then remains, given what we're doing here and what Mr Wessinger, Mr McLean and Mr Wilson have said, what is the end result going to be and what did the committee hear? I appreciate what you've done with this amendment, but I think there is the outstanding question of Tiny. I certainly heard some pretty compelling evidence that makes me want to seriously incline towards a ward system for Tiny, on the basis of what I heard.

The Chair: We have a proposed government amendment. The arguments have been stated. Unless there is further comment, I would put the question: Shall the government amendment to clauses 3(1)(a), (b) and (c)—

Mr Wessinger: Perhaps we could have an amendment to this motion that in clause (a) the words "the township of Tiny and" be deleted. Perhaps I should write that out.

The Chair: Mr Wessinger, are you placing an amendment to the government amendment?

Interjection: You just have to strike it out, because then it reverts back to the original.

Mr Wessinger: Okay. I move that clause (a) be deleted.

The Chair: Could I ask legislative counsel to address this?

Mr Wessinger: Legislative counsel recommended that that's the language to be used.

Ms Lucinda Mifsud: It would revert back to clause 3(1)(a) in the bill, which I believe makes them both by wards. So we just have to deal with clauses (b) and (c) if that's what the committee wants and not clause (a).

The Chair: Any questions on that?

Mr Eddy: One of the problems here is that we're imposing rules on these municipalities where all other municipalities have the right to establish wards or by general vote. My problem is imposing something that

the present council wants. If the next council wants to change it, they should be able to. That's my question of the government.

Later, if a municipality wants to change from municipal elections on the basis of a general vote from a ward vote—or the other way around, which is more probable—can it do that under the Municipal Act? That still will be possible, will it?

Mr Griggs: I believe the next amendment we'll be hearing addressed that issue. I guess we'll talk about it at that time.

Mr Hayes: I can appreciate what the members are saying, but the only problem I have with a situation like this is that you have a duly elected county council and a duly elected municipal council and they have chosen to go a certain way, and we're saying, because some people complain, that we're going to go the other way on this. I have a problem with supporting them in it.

Mr Conway: That, I think, is a legitimate concern. I look at what we've got then in Simcoe county—maybe we don't need to do this, maybe the mechanism is good enough, but boy, what I heard. With the Tiny township situation, I feel a bit like Lord Durham, who came expecting a citizenry at war with its elected government, but rather I found two nations warring within the bosom of a single state. Tiny township is not a happy place, on the basis of what I heard.

1040

I said earlier in this proceeding that I'm a cottager. As to Professor Ellis's comments, boy, I'll tell you, I would feel very nervous if he were representing me in Renfrew county as a cottager because that's certainly not going to lower the temperature, but there is apparently a pretty ongoing tension up there around the relationships between the permanent residents and—looking at some of the numbers I have here, in Tiny you've got permanent residents, according to the 1988 data, of 7,400, and the total number of electors is about 17,000. Maybe it's typical of a lot of the Georgian Bay communities, but that's a very—

Mr McLean: I think the discussion we've had around this very issue will cause Tiny to consider whether it may want to change it. I think the discussion we've had has been good because it has brought the concerns out that were raised by Mr Ellis, and I'm sure the municipality will maybe have a second look at it on its own.

Mr Conway: All right. That may be the way to do it.

The Chair: Now we have an amendment to the government amendment moved by Mr Wessinger, and I would just ask legislative counsel to read that one last time and then I will call the vote on the amendment to the amendment.

Ms Mifsud: The opening flush of the motion should

read, "I move that clauses 3(1)(b) and (c) of the bill be struck out and the following substituted," and cross out (a) and just deal with (b) and (c).

The Chair: That is the amendment to the amendment. Shall the amendment to the amendment carry? All in favour? Opposed? The amendment to the amendment is defeated.

We now go to the government amendment to clauses 3(1)(a), (b) and (c). Shall the government amendment carry? All in favour? Opposed? Carried.

Shall section 3, as amended, carry? In favour? Opposed? Carried.

We then move to section 4 of the bill. Do we have a government amendment, parliamentary assistant?

Mr Hayes: I move that clauses 4(1)(b) and (c) of the bill be struck out and the following substituted:

"(b) alter or dissolve any or all of the wards in the local municipality;

"(c) determine the number of members the council of the local municipality shall have in addition to the mayor and deputy mayor, and, if the local municipality has wards, determine the number of additional members to be elected from each ward."

The Chair: Any comments?

Mr Hayes: Simcoe county council originally recommended that all new municipalities have councils elected by wards. Since then, the county council has passed resolutions requesting that the township of Tiny and the towns of Collingwood and Wasaga Beach be allowed to maintain elections by general vote rather than by wards. This amendment allows all of the new municipalities in Simcoe to apply to the Ontario Municipal Board to dissolve any or all wards and to alter the number of members of council.

Mr Jim Wilson: I'm supportive of this amendment, and I would like for the record a clarification of the petition procedure that's mentioned in subsection 4(1) with respect to the Municipal Act. For the record, how might citizens access that portion of the act?

The Chair: Mr Griggs.

Mr Griggs: I'm going to have to consult with our—

Mr Jim Wilson: While that's occurring, subsequent to that my concern is with—I've mentioned it earlier in the hearings—the dissolution of the villages of Everett and Angus, for example, in my riding. Take Angus, for example: A number of citizens have been worried that even under the new ward system, as they lose their three village trustees now, that they won't have enough representation out of the ward system on the new township of Essa council.

I want to make clear for the record two things. One is how they might petition this if they want a ward divided. My question would be, can you add a ward under this? If that were answered I think that would

suffice, but there's also a clarification needed with respect to another section of the act that I believe says that the new council, ie, the new township of Essa, has until December 31 of this year to submit to the government its final proposal on where the wards will be in Essa; just a clarification on that, please.

Mr Griggs: You requested a clarification regarding petitions to the OMB by electors regarding ward systems. Let me just read the section to you. It's subsection 13(3) of the Municipal Act, and this is regarding the establishment of wards by the Ontario Municipal Board.

"A petition of 75 electors in a municipality having not more than 5,000 electors and of 150 electors in a municipality having more than 5,000 electors may be presented to the council of any local municipality requesting the council to make an application to the municipal board to divide or redivide the municipality into wards, and, if the council refuses or neglects to make the application within one month after the receipt by the clerk of the petition, the petitioners or any of them may apply to the municipal board for the division or a new division of the municipality into wards, and the municipal board, despite any general or special act, may divide or redivide the municipality into wards in the manner provided in subsection (1) and shall declare the date when the division or redivision shall take effect."

That reference to subsection (1) states,

"When a municipality is incorporated or erected, the municipal board shall divide a city and may divide any other local municipality into wards, and shall designate the name or number each ward shall bear."

Mr Jim Wilson: Thank you. Was I correct with respect to the December 31 date for the proposed wards?

Mr Griggs: You're referring to the submission of ward proposals by the municipalities? Let me just check that for you.

Mr Jim Wilson: I'm thinking along the line that between now and that date, my advice to the people of the former village of Angus would be to lobby the current council of the township of Essa and see that they get the best deal possible.

Mr Griggs: The section is subsection 44(1) in the bill on page 33, and it states, "A proposal shall be submitted on behalf of a local municipality"—I won't read it word for word, but the date is December 1, 1993.

Mr Jim Wilson: December 1. Thank you very much.

The Chair: Shall the government amendment carry? Those in favour? Opposed? Carried.

Shall section 4 of the bill, as amended, carry? Carried.

Shall section 5 of the bill carry? Those in favour? Opposed? Carried.

Shall section 6 of the bill carry? Carried.

We have a government amendment to section 7. Parliamentary assistant.

Mr Hayes: I move that paragraph 3 of subsection 7(2) of the bill be amended by striking out "one or two votes" in the fifth line and substituting "the same number as or one vote."

On that, the Simcoe county study committee recommended that the new multiple voting system for county council provide that when a municipality has an even number of votes, the mayor have two more votes than the deputy mayor. When it reviewed the study committee's report, county council amended the recommendation to provide that when a municipality has an even number of votes, the mayor and the deputy mayor have an equal number of votes. This amendment accurately reflects the recommended multiple voting system endorsed by county council.

Mr Eddy: This is an improvement, and I support it. It follows what happens in other councils.

The Chair: Shall the government amendment carry? Carried.

Shall section 7, as amended, carry? Carried.

Shall section 8 of the bill carry? Those in favour? Opposed? Carried.

There is a motion from the Conservative caucus. Mr Wilson.

1050

Mr Jim Wilson: With respect to section 9, I move that section 9 of the bill be struck out.

The Chair: That motion is out of order. You simply indicate that by voting against the section, but the motion itself is out of order.

Mr Jim Wilson: Why is it out of order?

The Chair: I knew you were going to ask me that.

Mr Jim Wilson: Because a number of witnesses asked for it.

The Chair: Yes. As I understand, it's a parliamentary procedure, but you cannot move that a section be struck out. What you do is vote against it, unless it's being replaced. If you were striking it out and replacing it with something, but otherwise you indicate your opposition.

Mr Jim Wilson: May I speak to opposing section 9?

The Chair: I'm sure there's something deep within Robert's Rules of Order, and I would permit a brief comment.

Mr Jim Wilson: Thank you, Mr Chairman. I do now recall having had this occur on other committees. While I would encourage that members of the committee vote against section 9 when the question is put—

The Chair: Wait a minute. Maybe I should have section 9 put, and then your remarks would relate directly to the issue. Shall section 9 be carried?

Mr Jim Wilson: I'd encourage members not to carry this section, given that a number of witnesses felt, although it is a permissive clause and it's permissive only, that it certainly did stir up concern with a number of municipalities that appeared before the committee.

The concern seems to be that the current status quo—I know it's a redundant term—but the county council recently by bylaw instituted the practice that there would only be a one-vote system per municipality on its committees of county council. I think there's concern there that with the appearance of section 9 in this bill and perhaps a misunderstanding, that the current practice may somehow get undone. To be safe, I'm recommending that we vote against this section, thereby deleting it from the bill.

The Chair: Shall section 9 of the bill carry?

Mr Eddy: This is a question, but I'd like clarification, because this provision of course is in the Municipal Act for any county council to adopt and remains there. As this is a Simcoe county bill but does not limit the county of Simcoe to specific service provisions in the act, I would expect it's still there, and all I'm saying is it would still be possible.

The Chair: The parliamentary assistant?

Mr Hayes: First of all, my understanding is, like Mr Eddy has said, it's the Simcoe act of 1988 and it is permissive. I guess what has happened here is they already have this act and it's taking it and transferring it to this piece of legislation. Maybe Mr Griggs can clarify further.

Mr Griggs: Yes, I can clarify this issue. Under section 65 of this bill, which is on page 51, the County of Simcoe Act, 1988, is repealed on December 1, 1994. This section 9 is a current section in that private bill and again it is permissive, and in fact the authority also does exist in the Municipal Act. So it's continuing an existing provision allowing the county council to make these decisions.

The Chair: Shall section 9 of the bill carry? In favour? Opposed? Carried.

Could I just note for members, there is one PC motion which indicates section 10 and which should really be section 11, so I'm now going to move section 10.

Shall section 10 of the bill carry? In favour? Carried.

We then move to section 11.

Mr Jim Wilson: I ask that this motion not be introduced at this time. I'm awaiting a fax from the town of Stayner indicating its support for the motion.

The Chair: Okay. We'll stand down your motion. Shall we stand down this section? No, this is the PC

motion which reads "Section 10," but should be, "Section 11."

Mr Conway: The one concerning Stayner?

The Chair: Yes.

Mr Conway: The township of Nottawasaga? That one?

Mr Jim Wilson: Concerning the hydro-electric.

The Chair: Shall we then also stand down the government motion, 11(15), and just come back to that section along with section 2?

Mr Hayes: No. Our amendment does not really affect, I don't believe, the PC motion so we could deal with this.

The Chair: We will deal with that but we will not deal with the section as a whole because we'll come back. Okay, so we'll now go forward—

Mr Daniel Waters (Muskoka-Georgian Bay): Shouldn't we deal with subsection 11(9)?

The Chair: I believe that 11(9) relates to—

Interjection.

The Chair: Yes. We'll then defer the two PC motions, section 11 and subsection 11(9). We'll now deal with the government motion 11(15). Parliamentary assistant?

Mr Hayes: I move that subsection 11(15) of the bill be struck out and the following substituted:

"Exception

"(15) Despite subsection (9), the councils of the township of Mara and the township of Rama may, if they both pass a bylaw so providing during 1993, provide that only two members be elected to the commission for the term commencing December 1, 1994, and all subsequent terms, but bylaws passed under this subsection shall not be repealed after December 31, 1993."

Subsection 11(15) provides that the township of Ramara, made by bylaw passed during 1993, provides that only two members be elected to their hydro-electric commission for the term commencing December 1, 1994.

During the hearings the township of Mara indicated that the township of Ramara will not exist until January 1, 1994. So the statute would be impossible for the new township to pass such a bylaw during 1993. This amendment addresses the concern by providing for passing of similar bylaws by both townships.

The Chair: Shall the government amendment carry? Carried. We will not move section 11 as yet.

Shall section 12 carry? Carried.

Shall section 13 of the bill carry? In favour? Opposed? Carried.

Shall section 14 of the bill carry? Carried.

Okay, then we come to section 15. Parliamentary

assistant, is there a government motion?

Mr Hayes: I move that subsection 15(6) of the bill be amended by striking out "township" in the third line and substituting "town."

As it is currently written, subsection 15(6) refers to the township of Bradford-West Gwillimbury. This amendment corrects this error so that subsection 15(6) will refer to the town of Bradford-West Gwillimbury, and that's housekeeping.

The Chair: Shall the government amendment carry? In favour? Opposed? Carried.

Shall section 15 of the bill, as amended, carry? Carried.

Shall section 16 of the bill carry? In favour? Carried.

Shall section 17 of the bill carry? In favour? Opposed? Carried.

Shall section 18 of the bill carry? In favour? Opposed? Carried.

Shall section 20 of the bill carry? In favour? Opposed? Carried.

Shall section 21 of the bill carry? In favour? Opposed? Carried.

Shall section 22 of the bill carry? In favour? Opposed? Carried.

Shall section 23 of the bill carry? In favour? Opposed? Carried.

Shall section 24 of the bill carry? In favour? Opposed? Carried.

Shall section 25 of the bill carry? In favour? Opposed? Carried.

One second. Deep breath. The clerk has made a marvellous suggestion. Shall all sections up to and including 33 carry? In favour? Opposed? Carried. I am indebted to the clerk, as I'm indeed sure all members are. May I simply comment on how fortunate we are to have such a clerk.

1100

I have a motion—Mr Waters, I believe—to section 34, which you may want to do something with.

Mr Waters: It's my understanding—

The Chair: If it's out of order—

Mr Wessenger: We can vote against it.

Mr Waters: We can vote against 34 and then that, therefore, does the same thing. We can speak to it. I think section 34—I know, the people I represent in the northern part of the county feel very strongly that this was like a red flag, that there is under the Municipal Act powers for Barrie and Orillia to annex; they don't need it written in the County of Simcoe Act. In fact even the mayor of Barrie was gracious enough to admit that she didn't need this. Therefore, I would recommend that we vote this down.

Mr Jim Wilson: I'd just want to indicate for the

record our agreement with Mr Waters on this matter.

Mr Conway: I agree. I think there was a very clear consensus that this was an unhelpful section and it is best to be done away with.

Mr McLean: May I just have a minute on this or less? The mayor of the city of Orillia felt very strongly that this section should be kept in the act—although I'm quite familiar with the Municipal Boundary Negotiations Act and indicated that it didn't matter whether it was in or not; it really doesn't. However, he felt that they were getting something from the ministry to pacify them when they were kicked off the restructuring committee. It made them feel good, but I know then they know the facts about it. It really doesn't matter whether it's in there or not as far as I'm concerned, but I just wanted to let you know that he did want it left in.

Mr Wessenger: Perhaps I should just also add that in my discussions with the city of Barrie council they also indicated they wished it in even though it is only permissive and had no legal effect. But I just thought that should be on the record.

The Chair: I will then call the motion. Shall section 34 of the bill carry? In favour? Opposed? Carried.

Interjections.

The Chair: I'm sorry. Ayes and nays then, just to be clear, okay? Shall section 34 of the bill stand? All those in favour? A recorded vote has been asked for. All those in favour of section 34?

Interjection.

The Chair: No, as it is in the bill.

All those in favour? All those opposed?

Nays

Conway, Eddy, Hayes, McLean, O'Connor, Owens, Rizzo, Waters, Wessenger, Wilson (Simcoe West).

The Chair: So section 34 of the bill is deleted.

I'm just getting carried away with all these "In favours." Just slow down here. Could we then move—shall sections 35, 36, 37 and 38 of the bill carry? In favour? Opposed? Carried. So 35, 36, 37, 38 are—

Mr McLean: Just a minute, Mr Chairman. There has been some discussion on section 38 with regard to the appointment under the Public Transportation and Highway Improvement Act, and I want a clarification if that has anything to do with suburban roads.

The Chair: All right. The question relates to suburban roads. Mr Griggs?

Mr Griggs: Yes, my understanding is that the county council endorsed a recommendation of the study committee that the suburban roads commissions be dissolved, and through an arrangement with the cities they decided that they should continue some form of representation from the cities on a county roads committee to deal with issues regarding suburban roads, even though the commissions would no longer exist.

Mr McLean: Could I have a clarification? I thought I saw some amendment that had to do with—

Mr Griggs: Yes, that's 39(5).

Mr McLean: Oh, okay.

The Chair: Okay? Mr Eddy, you had a question on 38?

Mr Eddy: Actually, I think it's 36 and the question is about limiting the amount that can and will be contributed by the two separated cities to what were accounted as suburban roads and now the county roads system.

I'm not clear on how the limit is placed and I wonder why, if indeed it is a limit, it's being placed, because under the Public Transportation and Highway Improvement Act, part VIII, suburban roads, the formula used for contribution by those separated municipalities in a county system to the suburban road system is a formula devised by the Minister of Transportation of the province of Ontario and that can change. It's the equalized assessment of the separated municipality as modified by the minister. It seems to me this is being put in a special case. If it happens, it'll be the only special case like it in the province, other than the city of London, of course, where there's a buyout situation with Middlesex county.

The Chair: Did I hear Middlesex?

Interjections.

Mr Eddy: No, I'm right this time. It isn't that other system. But all the others are the same. It doesn't limit the contribution to the roads by the two separated cities.

Mr Hayes: I could ask Mr Griggs to clarify this, but also, at the same time, maybe if you could just bear with us for a minute and we'll get the amendment for 39(5). It may address your concern.

The Chair: With that, then, can I again ask, shall sections 35, 36, 37 and 38 carry? Carried.

Section 39, government amendment.

Mr Hayes: I move that subsection 39(5) of the bill be struck out and the following substituted:

"(5) Subsection 68(3) and sections 69, 70 and 71 of the Public Transportation and Highway Improvement Act apply with necessary modifications to designated county roads."

Simcoe county council recommended that the Barrie and Orillia suburban roads commissions be dissolved and replaced by a cost-sharing arrangement between the cities and the county. Now, the Ministry of Transportation of Ontario expressed concern that the cost-sharing arrangement established in the bill did not provide for the existing limitation on city contributions to the county. The absence of such limits would adversely affect the calculation of a county's roads grants from MTO. This amendment will provide for the continuation of the current limitation on contributions from Barrie

and Orillia for suburban roads in Simcoe. I think that addresses your concern, Ron.

Mr McLean: Does that put a minimum? It's a half a mill. Is that going to part of this—

Interjection: It's half a mill.

Mr McLean: That's what I want clarified. Is it a minimum of half a mill or is it a maximum of half a mill.

Mr Griggs: It's a maximum of half a mill. There is a provision that exists for all cities where there's a suburban roads commission that they can bump it up to two mills with some form of agreement. It's basically continuing the existing situation regarding contributions from the cities.

The Chair: Shall the government amendment carry? Carried.

Shall section 39 of the bill, as amended, carry? Carried.

We then have a government amendment to section 40.

Mr Hayes: I move that subsection 40(1) of the bill be amended by,

(a) striking out "40.733" in the fifth line and substituting "40.8472";

(b) striking out "34.393" in paragraph 1 and substituting "34.5072."

That sounds pretty well self-explanatory.

The Chair: Before discussion, I would just remind members of the mathematical test at the end of this clause-by-clause.

Mr Hayes: Subsection 40(1) of the bill maintains the current arrangements regarding distribution of costs, operating, maintaining and repairing the Holland Marsh drainage scheme in the town of Bradford-West Gwillimbury and it continues a provision of Bill 177 and the south Simcoe legislation. Since the passing of Bill 177, the percentages involved have been amended. As such, the current percentages described in the bill regarding the costs attributed to the town and to be assessed against the lands benefiting from the drainage works are incorrect. This amendment will provide for the correct distribution of these costs.

1110

Mr Conway: Take your word for it, Pat.

The Chair: Shall the amendment carry? Carried.

Shall section 40, as amended, carry? Carried.

Unless anyone has any comments on sections 41, 42 or 43, I will call then those sections. No comments? Shall sections 41, 42 and 43 of the bill carry? Carried.

Section 44: Parliamentary assistant, there is a government amendment.

Mr Hayes: I move that subsection 44(1) of the bill be amended by inserting after "municipality" in the

second line "except the township of Tiny, the town of Wasaga Beach and the town of Collingwood."

Simcoe county council originally recommended that all new municipalities have councils elected by wards. Since then, county council has passed resolutions requesting that the township of Tiny and the towns of Collingwood and Wasaga Beach be allowed to maintain elections by general vote rather than by wards. This amendment exempts Tiny, Collingwood and Wasaga Beach from the requirement to submit ward proposals to the minister.

The Chair: Shall the government amendment carry? Carried.

There's another government amendment. Parliamentary assistant, you have an amendment to 44(2)(a).

Mr Hayes: Yes, Mr Chairman.

I move that clause 44(2)(a) of the bill be amended by striking out "the town of Collingwood, the town of Wasaga Beach, the township of Tiny" in the fifth, sixth and seventh lines.

The Chair: Shall the government amendment carry? Carried.

Now, shall section 44, as amended, carry? Carried.

We then move to section 45. We have a government amendment.

Mr Hayes: I move that clause 45(1)(b) of the bill be amended by striking out "1996" and substituting "1997."

The Chair: Comment?

Mr Hayes: The township of Tay expressed the concern that the time provided for the consolidation of the bylaws passed by the former municipalities by the new township of Tay would be inadequate. This amendment addresses this concern by providing each of the new municipalities until the end of the term of the first elected municipal council to consolidate bylaws.

The Chair: Shall the government amendment carry? Carried.

Shall section 45, as amended, carry? Carried.

Now, if I could just say to members—I would call then sections 46 through 52, but if there was—I'll just give members a moment to cast their eyes over those, but we have no amendments from 46 through 52.

Interjection: One moment, please.

The Chair: Yes, I will give you all just a second to have a quick look in case anyone—Mr Wilson.

Mr Jim Wilson: Just a question on 47, to the parliamentary assistant. The question arose by Mr Ted Hannan, who's the chief administrative officer for the amalgamated Clearview. He wanted to know, and I don't think we had a chance yesterday to respond to it, whether an asset—I'll just read it exactly. He says: "Probably the most contentious issue is reserves and

whether or not they're a capital asset. If you use reserve for a capital project, have you simply transferred an asset of cash to some other form of capital asset?" Rather important because of what's going on in the transitional councils now. Have we got a response to that?

Mr Hayes: Yes. Linda Perron from the legal department.

The Chair: If you would, Linda, just identify yourself for Hansard.

Mrs Linda Perron: Linda Perron, solicitor, legal services branch, Ministry of Municipal Affairs. I think, in reading section 47, it's important to carry through and continue on to read subsection 47(3), which provides that, "The minister may by regulation define capital asset for the purpose of this section." So this provision is there as a precautionary measure and, depending on the circumstances which may evolve in the next few months before this comes into effect, the provision could be used.

Mr Jim Wilson: Further clarification.

The Chair: Yes.

Mr Jim Wilson: We haven't seen the regulations so we don't know what the minister's—

Mrs Perron: And there's no regulation that's been prepared at this time.

Mr Jim Wilson: So what is the definition of a capital asset?

Mrs Perron: We have not defined it at this time.

Mr Jim Wilson: What about cash, though, in reserves? I think that's the question.

Mrs Perron: It could be.

Mr Jim Wilson: What about in this interim period, though, if cash is being used up by the current municipalities? For example, I think Mr Hannan was posing the question, in a polite way, what if a municipality used up all its reserves now, is there a penalty if later that is called a capital asset?

Mr Griggs: I might refer you to section 67 on page 51, which provides for the commencement of section 47 when this—sorry. It provides—

The Chair: Which section, Jeremy?

Mr Griggs: Subsection 67(2), and it provides that a number of sections of the bill come into force on the day the act receives royal assent, so that will establish the period from which this section will apply. In other words, from the date that this act receives royal assent, "A former municipality shall not, without the approval of the minister, convey or agree to convey any capital asset."

Mr Jim Wilson: Mr Hannan did address that, so I'll just go on to read what he said in his brief. Again, it says:

"If you use a reserve for a capital project, have you simply transferred an asset of cash to some other form of capital asset? Is this a conveyance?"

"Further, if a municipality does dispose of or convey a capital asset valued at more than \$25,000, what are the penalties, who is responsible and who establishes the value of a capital asset?"

Finally, he says:

"If we are looking at January 1, 1994, as the implementation date, the lateness in the calendar for third reading and royal assent probably makes section 47 redundant. It is a section that, if left in, may come back to haunt us at some future date."

Is there any comment on that from the government?

Mrs Perron: First of all, I will comment on the enforcement aspect of it. In subsection 47(1) it clearly states that, "A former municipality shall not, without the approval...convey or agree to convey a capital asset." In effect, a conveyance would be invalid and it would be up to someone to challenge the validity of an agreement or transfer, so there wouldn't be any policing mechanism set up for that purpose.

Mr Jim Wilson: But you would wait for a complaint.

Mrs Perron: Or the complainant—for example, I guess, a ratepayer could apply to quash the bylaw which authorized the conveyance.

Mr Jim Wilson: Okay, that does clear it up.

Mrs Perron: Or it would be illegal and ultimately the contract providing for this transfer would not be legal.

Mr Jim Wilson: But what happens once the cash is gone?

Mrs Perron: Then perhaps restitution would have to be made, depending on how the parties settled it or, if the courts became involved, to trace how the money was actually disposed of and arrange for full restitution to be made.

Secondly, I think the gentleman is very correct in the sense that depending on when—this will be in effect during the period between royal assent and January 1, 1994, because subsection 47(1) makes it clear that this restriction applies to a former municipality. Basically, that principle or that language will disappear by January 1, so the longer it takes to get third reading and royal assent, I guess, the shorter the period of time this will apply is correct.

1120

Mr Jim Wilson: Thank you very much. That does clear it up. Mr Chairman, for the record, I don't anticipate any problems, but I did want a clarification on that.

The Chair: Then may I ask, shall sections 46, 47, 48, 49, 50, 51 and 52 carry?

Mr McLean: No. There are some amendments

which will have a bearing on section 50, both by myself and by Mr Wilson, and if those amendments carry, then that will change some of the—

The Chair: I'm sorry. Do we have—

Mr Waters: Do you want section 50 stood down?

Mr McLean: Yes, section 50.

The Chair: Okay. We don't have those amendments but you will be moving those.

Mr McLean: It has to deal with the boundary change.

The Chair: All right. So section 50 then, we'll stand that down. Okay, so then let me repeat the question. Shall sections 46, 47, 48 and 49 carry? Carried.

Shall section 51 carry? In favour? Opposed? Carried.

Shall section 52 carry? Carried.

Now section 53, there's a government amendment. Parliamentary assistant.

Mr Hayes: I move that clause 53(9)(a) be amended by adding at the end "subject to any reductions resulting from the Social Contract Act, 1993."

Subsection 53(9) provides that persons who become employees of one of the local municipalities or local boards under section 53 will receive a salary no less than they were receiving on July 1, 1993. During the hearings a number of municipalities expressed concerns regarding the effect of the Social Contract Act on subsection 53(9). This amendment addresses this concern by stating that adjustments resulting from the Social Contract Act will be taken into account in the protection of employees' salaries.

The Chair: Shall the government amendment carry? Carried.

Shall section 53—

Mr Waters: There's another amendment.

The Chair: Yes, sorry. There is another. Mr Waters.

Mr Waters: I move that section 53 of the bill be amended by adding the following subsections:

"Contracts of employment, etc.

"53(12) Despite this or any other act, the minister may, by regulation, amend or repeal all or part of a contract of employment or a collective agreement entered into between one or more employees of a former municipality or a local board thereof or a bargaining agent of the employees of a former municipality or local board thereof and a former municipality or local board thereof, if in the opinion of the minister the contract of employment or collective agreement would result in any unfairness among the employees of a municipality or local board thereof."

"Retroactive

"(13) A regulation under subsection (12) may be retroactive to January 1, 1994."

The Chair: Comment, Mr Waters?

Mr Waters: It has to do with some special contracts that were issued, is why it came to my attention, in the township of Orillia. The township entered into these contracts, I believe, in 1991, after the Simcoe county restructuring discussions had started. Some of it is a generous notice of termination of 36 months. Duties and responsibilities cannot be altered unless the employees agree to it. If the township enters into an amalgamation with any other municipality, the employee may request and the employer must pay a lump sum equal to 36 months' remuneration. The contracts also purport to bind the successor municipalities, and I think this puts an unfair burden on a new township.

Mr Stephen Owens (Scarborough Centre): This may be a question for legislative counsel or for some of the legal minds in the room, but do we as a committee or as a government actually have the authority to put a section like this into a bill?

Mr Eddy: Like the social contract.

Mr Owens: Well, no, I understand that. You're talking about a relatively individualized situation, and I'm concerned that we may be going outside the bounds of our jurisdiction.

The Chair: Can I take that question, Mr Wilson, as a comment on the same issue, and then we'll have the parliamentary assistant deal with those. Mr Wilson.

Mr Jim Wilson: Really, a couple of comments. Mr Chairman, I find it shocking that the NDP, particularly Mr Waters, who's a union organizer, is willing to put this motion forward to deal with a particular problem in the township of Orillia, given that it gives the minister pretty sweeping powers to open up contracts.

Having said that, if there's a problem with the township of Orillia, perhaps the motion could be amended to deal specifically with that problem, because the way it's worded, it will affect all employees in all municipalities in the county of Simcoe. I think that is unfair and that you're asking for far too broad a power grab here.

Mr Wessinger: I just have some concern about the extent of this provision and I agree in fact—one of the times I will agree with Mr Wilson—that if you're going to do something, we ought to really limit it to a particular situation rather than have the broad brush.

I have a concern on more or less a philosophical point of view that, you know, do we have the right to make a second judgement with respect to the decision of a duly elected municipality? I think that's a difficult question and we are in effect overriding that decision. Normally, I would suggest that the only time you do an override of a decision is if you believe the decision was made in bad faith, as distinct from being a mistake in judgement.

I just thought I'd throw that out. I haven't really decided myself how I'm going to deal with this matter

or vote on it yet, but I do have some concerns.

The Chair: Mr Conway.

Mr Conway: I'll yield to Dan first.

The Chair: Mr Conway yields to Dan.

Mr Waters: When I looked at this, the reason why I looked at something that was broader than just Orillia and the new township of Severn specifically is that Matchedash found out about this almost by accident. We don't know whether this exists somewhere else within the county, whether somebody else has cut, I guess for lack of a better word, a sweetheart deal with their employees and done that after the restructuring discussions had started. So I think that to limit to one group and not allow everyone within the township the same rights and privileges would be difficult.

Mr Conway: I gather that the amendment speaks to a situation in one township that we know of where what in Renfrew we would call a sweetheart deal appears to have been made that would not perhaps be very popular if generally understood by the ratepayers in the community. That, I think, is what the motion speaks to, and I think that the member is right to bring this to our attention.

Was anybody here—remember the Rod Lewis deal? What an embarrassment that was for the then government, of which I was a part. You couldn't explain that. There was no explaining that to the taxpayers in the good old days of the mid-1980s. These are the 1990s, when taxes are high, unemployment is higher. You know, times are tough.

Boy, I'll tell you, I think that the member draws our attention to a very legitimate concern. If, in the name of restructuring, deals that are just not very defensible have been made and people who were not privy to those end up paying for them, as may be the case in Matchedash, then I think we've got a real problem.

1130

I think there is probably a bit of a consensus around the concern here, and both Mr Wilson and Mr Wessenger point to whether this is the appropriate instrument. I'm wondering whether or not we might just want to think about this for a bit and put it aside for just a little while to see whether or not we can do something here that is sensible.

The Chair: On this point, I had Mr McLean and Mr Owens again.

Mr McLean: I don't think anybody can say that there is some sweetheart deal made when they don't know the facts of the whole situation. I believe that the municipality made an arrangement with some employees to protect them from being hired by other municipalities, and whatever arrangement it made and whatever deal it made was made knowing full well of any consequences that may come from it.

I don't think that we can accuse somebody of a

sweetheart deal when that municipality made it in the best interests of its taxpayers and the protection of its taxpayers because of the expansion of the municipality, the new administrations that it was building, and it wanted to keep certain employees within its employment.

If they made a special deal, and I don't know what the deal is all about, but I understand the contract runs out this year, the new municipality, I'm sure, will deal with it in a manner which would be acceptable to all the new people of the township of Severn.

Mr Jim Wilson: Following on that, when you look at subsection 53(13) you see that regulation is going to be established, I assume, to make it more specific to the case involved. But I, first of all, oppose that. If we're trying to deal with a specific problem in that amalgamated municipality, then the motion should deal with that.

Secondly, I object to the phraseology in subsection 53(12) where it says, "would result in any unfairness among the employees of a municipality or local board thereof." "Unfairness" is a rather arbitrary word, and interpretation of fairness is left up to the minister. It does remind me of the social contract, and one of the problems we had was the Treasurer had the exclusive authority to decide whether a local agreement or sectoral agreement was fair or not. Given the track record there, I'm not inclined to support this. I would like to see the wording if Mr Waters believes that the problem is so great in that amalgamated municipality that something has to be done through this legislation.

Mr Owens: Just very quickly following on Jim's comments, I absolutely agree that the language with respect to unfairness is not on. In terms of any kind of negotiations or grievance arbitration processes that I've been involved in, "unfairness" or "fairness" was not terminology that was used. That's probably an issue for discussion in another place.

Jim suggests that it's arbitrary. I would suggest it's completely subjective in terms of how people view what's fair and what's not fair, and to enshrine language like that in legislation, I think, could be leading us down the slippery slope to places that we don't want to be, nor does the other township.

Mr Waters: I would just ask, could we have legal counsel comment on this motion?

The Chair: Sorry. You meant the ministry?

Mr Waters: Or the ministry, yes. Sorry.

Mrs Perron: I guess the one point I'd like to make in striking off is that it is a regulation-making power, so even though we haven't mentioned a specific township, a power may in fact not be used, and if we do specify a situation, we would not have the authority later on to correct a similar situation in other municipalities.

Thirdly, I guess the latter portion of subsection

53(12) is in fact putting a limit on our minister's discretion, because the alternative to the drafting of this provision would be simply to end the provision at the third-last line "thereof." So the latter part is indicating what principle will guide the minister in the exercise of his or her authority under this section.

Mr Jim Wilson: That's very interesting, that the only other option being presented is to end it at "thereof." I still, of course, have a problem with the definition of "unfairness." For example, given the sweeping regulatory power here, what's to prevent the minister from, on a good or bad day, deciding that one clerk was making too much money and that the other three clerks weren't making as much, and rather than give them a raise, as occurred in the south Simcoe amalgamation, he just brings everybody down to the lowest common denominator in terms of salary? Maybe that's the right thing to do on behalf of taxpayers, but it's very unfair to employees. So unless this is worded more specifically to the problem that I think Mr Waters is trying to address, I'm not inclined to support it.

The Chair: I have Mr Owens and Mr Conway.

Mr Owens: I was just conferring with my colleague and suggesting that we in fact stand this down, that we get perhaps some labour law advice in terms of the kinds of language that would be appropriate.

I think, again, if we're aiming at one particular situation, I'd have to agree with Mr McLean again and Mr Wilson that we have no idea what kinds of discussions went on around this deal. All I know is I have a bona fide contract in front me and it's not for me to presume that anything untoward went on during those discussions.

But I think that we've heard this language before in terms of addressing the flea with a hammer, that this may be in fact what we're doing and that, again, we may be headed for the slippery slope, where we just don't want to be. I've been there, two months ago.

Mr Conway: I've listened very carefully to what he said and it may very well be that we can't do what we want to do here legislatively. I don't take much comfort—I appreciate the advice that we seek good legal advice, but I think Mr Owens and others have made some very good points. I'm not worried about just the difficulties here. I'm not worried about Mr Wilson's concern about what a minister might do, because every major statute and most minor ones empower ministers, and civil servants in their name, to do quite a remarkable number of things. The reason they're not done most of the time is there are very real small-p political constraints around that. So I think maybe I'm coming to the conclusion that there's nothing we really can do here legislatively.

But I want to say this: I think we have to draw back. This proposal touches on, for me, a central issue in this

whole debate. I mean, this government, but previous governments of all stripes, have advanced these kinds of restructurings and reforms because they're going to make things more efficient, more cost-effective. I'm telling you I am absolutely terrified that for a lot of people in Simcoe county in the coming years, there are going to be very substantial costs: some very real cost increases and some apparent and real losses in local democracy and local accountability.

My worry—and I know there are some people here from perhaps even the affected township. One of the things I want to say to them, and through them to maybe people elsewhere in the ministry and in the local municipal governments, is that I just hope everybody is going to be very sensitive to the fact that one of the real tests against which this reform is going to be measured is, how efficient and how effective will it be? If in the coming weeks and months, people in Orillia township and Matchedash and Tiny and Tay and every place else start to hear and read about Rod Lewis-like deals, I'm going to tell you, it is going to reflect really poorly on every one of us who had anything to do with this. My friend from Brant and I were just chatting about some of the sweetheart deals that have been made by harbour commissions and hospital boards and municipalities and provincial legislatures and a lot of others, and the taxpayers have had it to the teeth with this kind of crap.

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This amendment I think rightly focuses attention on a concern that at least one group of people in Matchedash have raised about a liability that they may now be expected to assume in part and with which they had little or nothing to do in terms of its creation.

So I guess as I back away from this, I do so reluctantly but in the hope that there is going to be some very tough, good political sense exercised by a lot of people who understand good labour law and proper employee relations but on the other hand don't leave the taxpayers in Simcoe, generally or locally, with a bag of expenses that are completely unjustified and unjustifiable.

The Chair: Okay. Mr Wilson with just a final comment. I think we either need to deal with this or stand it down.

Mr Jim Wilson: That was a wonderful dissertation by Mr Conway. I gather from it he wants it both ways. I really didn't quite figure out what side of the fence he's on with this one.

Secondly, I'd ask him where the heck he was when his government forced amalgamation on the south end of Simcoe county. It's all fine and dandy to tell us now that there is cost involved in this, and you're right, Mr Conway, but I wonder why that wasn't a concern during the five years you were in government.

Mr Conway: Listen, I accept that criticism, and I

offered my observations, I thought, on a non-partisan—of course we've all done it. I was in government when we had to explain the Rod Lewis fiasco. I'm just saying that in 1993 there's a different imperative. One of the things I've heard over the course of three really interesting and informative days of testimony is that there are a lot of people in Simcoe county who are concerned that this reform is going to fail one of the salient tests, which is that it will be more efficient, more effective and less costly. All Mr Waters has done is bring to our attention a concern that's been identified by some people that because of or in the name of restructuring, arrangements are being made that may not look very good against that principal criterion.

Mr Waters: I would request it be stood down.

Mr Hayes: Yes, Mr Chair, I was going to suggest that we do stand this down, give each caucus a chance to sit down and discuss it between themselves, and hopefully we can come back here with a better understanding and be able to carry on with this.

The Chair: Okay, we will stand this down. So section 53, then, is stood down. We'll return to it.

Just before getting to section 54, may I ask committee members for some direction. Would the committee like to work on? If so, could I suggest that there is a cafeteria here. Either we could break for a short period and people could go and grab a sandwich or we would continue and people would sort of run down and get something. I'm in the committee's hands. We can break for 15 minutes or something at noon or at 1. Do you want to go through till 1 and then break?

Interjections.

The Chair: Sorry, just one at a time. Mr Wilson.

Mr Jim Wilson: Let's just finish the northern boundary amendments before we break at all.

The Chair: Okay. All right, fine, we will do that. Then government amendment, section 54. Sorry, just a minute. This is going to be a new section, so we need to move section 54 first. Okay?

Shall section 54 carry? Carried.

New section 54.1: Parliamentary assistant.

Mr Hayes: I move that the bill be amended by adding the following section:

"54.1(1) The Ontario Provincial Police shall continue to provide police services in an area in which the Ontario Provincial Police was providing police services at no charge to a former municipality on December 31, 1993, and which area is now located in the local municipality of the town of Collingwood, the town of Midland or the town of Penetanguishene until the Ontario Civilian Commission on Police Services is satisfied that the local municipality has discharged its responsibility under section 5 of the Police Services Act in respect of the area or any part of it.

"(2) The cost, certified by the commissioner of the Ontario Provincial Police, of providing police services under subsection (1) shall be charged to the local municipality in which the area is now located and may be deducted from any grant payable out of provincial funds to the local municipality or may be recovered with costs in any court of competent jurisdiction as a debt due to the crown."

The Chair: Comment?

Mr Hayes: Currently, the towns of Collingwood, Midland and Penetanguishene have local police forces to provide policing to their residents. Under the provisions of the Police Services Act, these towns will be required to police the areas to be added, then, under the restructuring as of the implementation date of January 1, 1994.

This amendment addresses the concerns presented by the Ontario Provincial Police and the towns of Midland and Penetanguishene regarding the transition to the provision of local policing in these new areas of the towns. The amendments provide for the continuation of OPP policing services in the areas to be added to the towns until the Ontario Civilian Commission on Police Services is satisfied that the town can adequately police these areas. The towns would be billed for the cost of continuing the provision of this service by the Ontario Provincial Police.

The Chair: I have Mr McLean and Mr Wilson.

Mr McLean: I just want to say that if this last paragraph was deleted, I would find the rest of it acceptable. I don't understand, during this transition period, why you wouldn't allow them to continue until there are elections in the fall of 1991, at least for that year—

Interjection: 1994.

Mr McLean: Fall of 1994. If you would delete that last paragraph or reword it, I would be more happy. This is another case of downloading on to the municipalities.

The Chair: Mr Wilson, are you on the same point?

Mr Jim Wilson: Yes.

The Chair: Go ahead.

Mr Jim Wilson: I do agree that it's a form of a downloading. We heard, for example, from the town of Midland about the tremendous costs—sorry, was it Midland? Yes, it was Midland, with Chief Hembruff. At least \$275,000 plus a couple of new communications towers on top of that is my recollection that the ratepayers of Midland are now going to have to pick up, apparently the population of the new expanded area. There's going to be a net cost there. They're not going to get enough out of the ratepayers in the expanded area, apparently, to cover the cost of some other new services they require. I think fire has to be expanded, and the new costs incurred with expanding the Midland

police force.

For the world of me, I don't understand why in Bill 51 there aren't provisions for the province of Ontario to compensate municipalities that have to expand their police forces, for the costs incurred in doing that. Certainly in Bill 177 under the previous government there was a formula for compensating. I know the government will argue that that perhaps is a different case because the choice there was to either expand the Alliston force to the three other amalgamated areas or to contract the OPP, which is what they've done. There's a problem there, if I may say, in that I think in two years the grants to policing to New Tecumseth run out and the taxpayers will have to foot 100% of the bill, and up goes the property tax, a very clear case of downloading.

So my question with respect to this would be, what is the cost to these expanding municipalities like Midland, Penetanguishene and Collingwood in terms of policing—I assume the government has costed that out—and why has the government decided through the back door to simply download that cost on to local ratepayers and not compensate those municipalities that have to expand their police forces under this act?

The Chair: Mr Eddy? I just think we'll get all the questions on the table.

Mr Eddy: I disagree as well with subsection (2) on the costs. The province is going to save money on police servicing when the municipality takes over full police services. Surely there can be some negotiation requirement of increases in the police force to police, at least partially. Whatever is done is going to save the OPP costs, and eventually they're going to save the complete costs of policing that area. Surely during the transition period, a transition period with specific dates, something could be worked out that costs are not charged for it, I'd say.

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The Chair: The parliamentary assistant.

Mr Hayes: If I may, Mr Chair, I'd like to ask Rick Temporale to address this issue. He can clarify some points.

The Chair: If you would just be good enough to identify yourself for Hansard and then please go ahead.

Mr Rick Temporale: Rick Temporale, Ministry of Municipal Affairs. First of all, this is a standard provision that's provided in restructuring legislation. If you remember, in the town of Midland the police board passed a resolution that they were prepared to police this area. I think they're prepared to gear up for that for the beginning of the year.

This section talks about the cost of OPP police. So what you intend to do in that case, Midland decides to police the area itself. There is transitional assistance available, which we've discussed before. It doesn't take

into consideration the cost of policing these new areas.

We've talked before about the fact that towns do have to pay for police under Solicitor General legislation. As to the exact costs of this, we don't know what the costs will be to police it, Midland doesn't know, Penetang doesn't know. It depends on the number of police officers they're going to put in there, and that's a discussion they're having at the board level now.

Mr Jim Wilson: I thought I'd brought with me a copy of a recent press release from Municipal Affairs to the town of New Tecumseth but I didn't, so I can't provide it to members, but it's the most recent police grant to the town of New Tecumseth. My recollection is that the total amount of money that's been given to the south end restructuring to date is \$4.2 million. A substantial portion of that is police. The press release that I thought I had a copy of indicated that the most recent amount given was \$534,991 strictly to the town of New Tecumseth. To the total south end restructuring, on April 14 the government announced a little over \$800,000.

I guess the point is there's tremendous costs. We're not seeing as large a geographical area being shifted from areas where currently the province pays for policing, putting the cost directly on to the property tax base. But we are seeing—Midland again comes to mind—a significant amount of dollar costs being incurred.

I will tell members that this is something that maybe the ministry—and I take it the ministry has discussed with municipal officials, but municipal officials have not told the public out there what some of these costs are.

I congratulate Chief Hembruff for coming forward, and the chairman of the Midland police services, for being honest in their estimate of the costs. Members will recall that when pressed on where this money's going to come from, he deferred to the mayor, who actually never did answer the question when the mayor of Midland was before the committee.

This is the type of downloading and the type of negative politics that will be the fallout from restructuring. When the people of Midland and Penetanguishene and Collingwood realize that there's tremendous costs involved that haven't been discussed with them ahead of time and they see their property taxes go up with no compensation from the province, I tell you, it won't be county council dealing with this issue, it'll be the local MPPs and in fact the government of the day having to deal with that issue.

Again, my question is, there is a provision in the act for grants to municipalities. We've been told to date that policing had not been considered in that grant formula. The amount's been set at \$2.6 million in transitional funding money. So I want to know what the

cost of police is in addition to the \$2.6 million and whether there's a commitment that we don't know about from the government to these municipalities to cover the costs of expanding policing.

Mr McLean: I think subsection (1) very well spells it out that the provincial police will supply the services until the civil commission on police services is satisfied that the local municipality can discharge its duties. I think that's very clear, and I think this is authorizing them to continue that until the local police can do it. So I would make an amendment and delete subsection (2).

The Chair: Do you wish to move an amendment?

Mr McLean: An amendment that subsection (2) of 54.1 be deleted.

The Chair: Of the amendment. Just while you're working out the wording of that, the parliamentary assistant wanted to—

Mr Hayes: Really, all it is doing, as a matter of fact, is allowing the OPP to be able to charge the municipality. It doesn't say anything about how much the province is giving or how much it's going to cost. You can't do that until you know exactly how many police officers you need in some of these areas. That's really what it is.

Mr McLean: What I'm saying is, they would continue the practice they are doing right now until the civil commission, the police services board, decides to take it over. Then they would have to assume the cost. But as it is now, that would continue until that stopped, and I presume until the fall of 1994.

Mr Jim Wilson: In response to Mr Hayes's comment, he still didn't answer the question. We know what the amendment's doing, but the question is, yes, you can, through legislation—Bill 177, the amalgamation of south Simcoe, is a good example—use a percentage formula, the actual dollar amounts to be worked out later, on the province's commitment to phasing in over five years the downloading. I know the ministry officials have a copy of Bill 177, but my recollection is something like the province paying for the increased costs of policing 100% in the first year and a sliding scale down after the fifth year to zero.

We are seeing a similar deal being worked out with respect to assessment on the malls from Tiny to Midland. There are a bunch of amendments here dealing with a percentage formula. So I don't see why the government can't work out a similar arrangement with respect to policing costs.

If you want to hold up Simcoe county to other counties—and maybe Mr Eddy will have a comment on this—as a model of restructuring, you have to be prepared to pay, at least on a phase-out basis, the costs of restructuring. Your \$2.6-million figure doesn't cut it, given that you've left out significant new costs like policing and firefighting and a few other services.

If the intent of this legislation from the government's point of view is to simply download costs, which I have argued all the way along it is, then tell us that. But that's not the selling job you've put out to the public all the way along to this point.

Mr Hayes: We'll tell you that you are wrong on that, Mr Wilson.

Mr Jim Wilson: Well, point out exactly where I'm wrong then, Mr Hayes.

The Chair: Just before we do that, Mr Eddy, did you have a comment, and then, parliamentary assistant, respond. I think we're getting close to where the issue is clear and we should deal with the amendment that Mr McLean—

Mr Eddy: Yes, just a brief comment. The police services board of each of the municipalities will be required to have a plan for policing the new areas, and part of that plan, it seems to me, could be the time frame for it. It could and should be the time frame, and along with that, it could be the cost of transitional financing.

I don't think it's awkward or difficult to do, and it's recognizing the OPP is now policing it free of charge and they've got a plus situation in that their costs will be reduced from day one somewhat and eventually, whatever the time frame is, will be free of all costs there, although there will be the per capita grant, of course, to the municipality.

The Chair: Parliamentary assistant, to Mr Griggs.

Mr Hayes: Yes.

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Mr Griggs: Again, if I can clarify the provisions of Bill 177, the south Simcoe legislation, regarding the police services, there is no mention of phasing in the costs for providing police services in that area. In fact, section 31 of Bill 177 is almost identical to the amendment we're considering today. If I can just read subsection 31(2):

"The cost of the Ontario Provincial Police Force providing police services under subsection (1)"—which is in the areas to be added to the town municipalities—"shall be charged to the town municipality and may be deducted from any grant payable out of provincial funds to the town municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to the crown."

Mr Hayes: It's the same.

Mr Jim Wilson: I know it was set out, I believe in the regulations, which under this act are being maintained. I don't know whether that's 231/91, but I'll read to you a press release from the Ministry of Municipal Affairs dated April 14, 1993, to his worship Mayor George McCague, town of New Tecumseth.

"Dear Mayor McCague:

"I am pleased to enclose a cheque in the amount of \$534,991. This is to assist in alleviating the financial impact of local policing costs in those areas of your town that were policed by the Ontario Provincial Police on December 31, 1990.

"The 1993 entitlement represents the third year of a five-year commitment the province has made to phase in the impact of local policing costs. As such, this year's payment represents funding at a 60% level.

"Sincerely,

"Ed Philip

"Minister."

There was a five-year formula. I believe it was contained in the regulations, and if that's what you intend to do here, then fine, just tell us, but I haven't heard that intention from the government.

Mr Hayes: I cannot commit the ministry or the minister or the treasury to any type of spending at this present time, but this amendment here does not stop the minister or the ministry from taking certain steps or spending money. Neither did Bill 177. This is really not much different than Bill 177. I cannot make any commitments of that nature.

Mr Jim Wilson: Just one final word on it, because I'm clearly not getting anywhere. When 177 was going through, prior to its passage, I remember very well because I was an assistant at Queen's Park, there was a very clear formula agreed to on the downloading of policing costs, and that to a great extent did help alleviate the concerns of those municipalities that were being amalgamated.

Mr Griggs: Again, I'd like to just point out that to imply that the costs for expanding police forces in south Simcoe are similar to the costs that will be incurred by the towns under the Simcoe restructuring we're considering today is a little misleading. When the three town municipalities were created under Bill 177, it involved the amalgamation of urban municipalities and large rural townships and under the Police Services Act those municipalities were required to police the entire area of those fairly large combined rural-urban municipalities. In the case of the Simcoe restructuring, we have a number of town municipalities that are expanding their boundaries through annexations from neighbouring municipalities. There isn't an amalgamation involving a large township that will be required to be policed.

In addition, if these municipalities were proceeding with annexations under the Municipal Boundary Negotiations Act, they would be required to police those areas with no consideration of assistance from the province for those additional costs.

The Chair: Mr Wilson and Mr Eddy, and then I think we need to deal with the amendments.

Mr Jim Wilson: I was in no way misleading the

committee. I made clear in my remarks that there is a difference. I understand that. But in spite of the legalese of actually the way the acts are currently worded and who's responsible for what, the point I'm making is that the principle is the same and it was recognized by the previous government in forcing an amalgamation on south Simcoe that there would be tremendous costs with respect to policing. We have evidence before this committee that there are going to be some tremendous costs with respect to policing to urban municipalities that are expanding to take in predominantly rural fringe areas. My plea to the government is that it look at compensating in a similar fashion to the deal that was worked out with south Simcoe.

Mr Eddy: Well, I did have a question and disagreement with one point in Mr Griggs's speech, but I'll follow that up later. I think the answer at this time would probably be to look at the amendment to 54.1(2) and change the word "shall" to "may." If we did that, it's permissive and then that would mean that there could be further negotiations and the possibility of something similar, if we just change that verb, rather than making it mandatory at this stage.

The Chair: At the moment, we have an amendment to the amendment from Mr McLean which would simply indicate that subsection 54.1(2) would be deleted. If you wish to make a further amendment to the amendment—

Mr Jim Wilson: Can I ask a question?

Mr Hayes: Can I make one point?

The Chair: Okay, one point and then a question, and then I do think we need to move on here.

Mr Hayes: These amendments were actually discussed by the Solicitor General's office and the OPP, and there was an agreement there that this would be the proper wording for this amendment, just to let the members know.

Mr McLean: Well, that doesn't mean our approval.

Mr Hayes: No, it doesn't mean your approval, but I'm just explaining to you, as much as information as I can give you, I will give you.

Mr Jim Wilson: Mr Chair, I have a question—

The Chair: A question, and I should just indicate, the order would be, we would have to deal with Mr McLean's amendment first before any other one, because of course it would, if passed, delete the second part.

Mr Jim Wilson: I have a question: I'm inclined to support the deletion of subsection (2) as per Mr McLean's amendment to the amendment, except that it leaves subsection 54.1(1) with no mention of compensation from the province at all. If we were to delete subsection (2), it's a question for legal counsel: What happens to the costs?

Mr McLean: The provincial police are going to police it, and they're going to pay the costs.

Mr Jim Wilson: Yes, I understand that. Mr McLean has said the provincial police are going to police it until such time as the new municipality takes it over.

The point that Midland made was that whenever they take this over, there are tremendous new costs to the ratepayers of the expanded Midland or Penetanguishene or Collingwood. It's at that point—I don't care when it happens. I appreciate the amendment's trying to make sure that there's a clarification of who legally polices the area until there is a takeover. The point is, when there is the takeover at whatever point, the province should be compensating to help offset the costs incurred by the new expanding municipalities. So the question is, what happens to costs if you simply delete subsection (2)?

The Chair: Okay, legal counsel is conferring.

Mr Conway: Jim, using the Midland example, it's not as though Midland is taking over a desert. As I remember the portion of Tiny that they're—

Mr Jim Wilson: That was covered. They said they would not get enough new taxes out of the expanded area to cover all the costs and that in fact policing was not part of the deal with the province and that they were going to do it and charge it to the taxpayers.

Mr Conway: I'm really maybe obtuse on this, but I think Ron made a point that surely each of the police services board is going to have some kind of a scheme for the town. I'm just thinking of Midland. It's not as though you were adding to the town of Midland the town of Wasaga Beach and the town of Collingwood. Aren't they fairly modest expansions to the boundaries of—

Mr Jim Wilson: They're pretty modest, except that certainly prior to the chief of police and the chairman of the police services board in Midland making their presentation, I had no idea of the tremendous costs. When you hear some of the figures they were talking about, that's a lot of money to a place like Midland.

The Chair: Can I ask legal counsel just to respond to the question around costs? That was the question, I believe, of what would happen—

Mrs Perron: I'm just waiting for the system to turn on.

The Chair: I think you have to push the button.

Mrs Perron: It's okay. I believe the question was, what would be the effect of the deletion of subsection 54.1(2)? My response to that is that the operative portion of subsection 54.1(1) would be that the "Ontario Provincial Police shall continue," so there would be a clear obligation on the OPP to continue services in those annexed areas. But I direct you to the latter portion of that provision which says, "until the Ontario Civilian Commission on Police Services is satisfied that

the local municipality has discharged...." So the discretion would remain theirs to determine how long to stay in that particular municipality. But there would be a clear duty on the OPP.

Mr Jim Wilson: But the question was with respect to costs, and then there would be just no mention of costs.

Mrs Perron: That's right.

Mr Jim Wilson: Mr Chairman, one last comment. Members have to keep in mind that police services boards set their levy, and I stand to be corrected on this, but we've had complaints from municipal councillors who say, "Look, we don't have—other than maybe the mayor sits on the police services board or something—any particular say in the levy that's set." That's why I think we had the chairman of the police commission in Midland saying: "These are the costs. We're going to have to incur them and they're going to have to be put on the property tax base."

I know what's going to happen there. The rest of the council is going to say: "We can't afford this. We don't want to raise taxes or whatever. Let's go to the province for some help."

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The Chair: We have an amendment from Mr McLean, and I think we've had a pretty full discussion. I think we ought to deal with the amendment to the government amendment. Mr McLean, do you want to just read your amendment?

Mr McLean: My amendment to section 54 is to delete subsection (2).

The Chair: This is section 54.1?

Mr McLean: Section 54.1, subsection (2).

The Chair: Of the government amendment.

Mr McLean: Of the government amendment. I'd like a recorded vote.

The Chair: Okay. Everyone has heard Mr McLean's motion, that subsection 54.1(2) be deleted. A recorded vote has been called for. All those in favour of Mr McLean's amendment to the government amendment?

Ayes

Conway, Eddy, McLean, Wilson (Simcoe West).

The Chair: All those opposed?

Nays

Hayes, O'Connor, Owens, Rizzo, Waters, Wessenger.

The Chair: The amendment to the amendment is defeated.

Mr Eddy: Mr Chair, I move that the word "shall" in the third line of section 54.1 be changed from "shall" to "may."

The Chair: Is that subsection 54.1(2)?

Mr Eddy: Yes.

Ms Mifsud: There's just one slight problem with

that motion. It begs the question of who makes the determination of when "may" becomes "shall." Would it be the minister? Would it be the police commission?

Mr Eddy: This act is under the Ministry of Municipal Affairs. Who makes the decision would be up to the minister to determine. The amendment is here because it came from the Solicitor General. It's the Solicitor General's amendment, so he would make that.

Mr McLean: It would be the Minister of Municipal Affairs, because on the next line it says "may be deducted from any grants payable." So I think the wording is right.

Mr Jim Wilson: You need something added though.

Ms Mifsud: Still, there has to be someone who kicks in who makes the determination, because we've mentioned the police commission, we have mentioned the minister, we have mentioned the local municipality. Theoretically, either of those could do it when we don't express who has the power to enact this provision basically when you change it to "may." When it's "shall," the legislation does it; this is the way it's going to work. When it's "may," there has to be someone who makes it legally effective.

Mr Eddy: I would say then "as determined by the Minister of Municipal Affairs," because the amendment has been submitted to the Ministry of Municipal Affairs by the Solicitor General. The minister also represents, in some ways, the municipalities and is in charge of this act.

The Chair: Would that read then, "may be charged to the local municipality as determined by the minister"?

Ms Mifsud: Fine.

Mr Eddy: It leaves it open for negotiation.

The Chair: Shall I put the amendment to the government amendment? Shall Mr Eddy's amendment carry? All those in favour? All those opposed?

Mr McLean: The same old thing.

The Chair: The amendment to the amendment is defeated.

Shall I put the government amendment?

Mr McLean: A recorded vote on the government amendment.

The Chair: Okay, a recorded vote on the government amendment. Shall the government amendment to section 54.1 carry? All those in favour?

Ayes

Hayes, O'Connor, Owens, Rizzo, Waters, Wessenger.

The Chair: All opposed?

Nays

Conway, Eddy, McLean, Wilson (Simcoe West).

The Chair: Section 54.1, as amended, is therefore carried.

Mr Jim Wilson: Just with respect to that policing issue, before we leave it, did we ever get a clarification on the cost associated with the Penetang mental health centre and particularly Oak Ridge? It has been discussed back and forth the last couple of days and, given that I think if there's a clear case of government assistance there—and we were told that there are three OPP officers dedicated on call to that centre. That's quite an onerous obligation for Penetanguishene now.

Mr Hayes: If I may, I'll ask Rick Temporale to address that.

Mr Temporale: This morning I talked to staff at the Solicitor General about this particular concern. They suggested there is a section in the act, the Police Services Act, subsection 13(1), and if you like I brought copies of that for everyone and I'll pass them around.

This section allows the Solicitor General to declare a special area:

"If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the province, the Lieutenant Governor in Council may designate the area as a special area."

It goes on to say that they can enter into an agreement with the OPP: "The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General" for payment. In this case, the owner is the province and the operator is the Ministry of Health, I believe.

I don't think there's anything that we can do in this act to override that act, but if you have any suggestions on how you might want to handle this—there's your answer anyway as to what's available. The exact costs aren't known at this time.

Mr Jim Wilson: Given the cutbacks at the Ministry of Health these days, you may be attempting to get blood from a stone. The question would be, had there been any discussions with the Ministry of Health or other ministries of the government that may be involved in helping to offset these costs to the new municipality?

Mr Griggs: Again, the first time we heard of this issue was at the hearings from Penetanguishene. There had been discussions regarding the transition of policing with the towns and between the towns and the Solicitor General, but this was the first time this had come to the attention of the province. So, no, there haven't been those discussions at this time.

Mr Wessenger: I would just like to make a suggestion with respect to this matter. I'm suggesting the committee could consider, after we complete clause-by-clause of this bill, moving a resolution requesting the Solicitor General to designate this as special circumstances.

Mr Conway: I appreciate the staff help on this because I was certainly concerned by what I heard from the folks up at Penetanguishene. It seems to me, as a practical matter, this will cover it. I would simply hope that the current and future solicitors general and governments will be sensitive, as I think they will be, to the reality that if there is a difficulty there, I can't imagine that it would not become quickly the responsibility of the OPP. This is useful because there's a location someplace in the law which says that it's possible.

The Chair: Okay. We're at 12:20. What I would like to suggest is the next amendment is a new part—

Mr Wessenger: Have we passed 55 to 60?

The Chair: We have not. Can I just finish what I was going to say and then—so what I'm asking people then is I would like to move sections 55 through 63. I just want to give everybody a moment to note that. At that point, I would suggest, is probably the appropriate place for us to break. Okay, so what I'm asking is, are there any comments on sections 55 through 63?

Interjection: One moment—

The Chair: Yes.

Interjection: I got 63.1—

Interjection: This is the new part.

Interjection: Oh, it's a new one. Okay, yes, you're right.

The Chair: It's a new part, so 63 is in fact covered.

Mr McLean: There's been a lot of discussion with regard to the public utilities commission. Was there anyone who had amendments to that—I thought somebody did—to the public utilities?

Mr Jim Wilson: Yes—

Mr Hayes: But you are waiting for your letter, right, or for—

Mr Jim Wilson: Yes, it's been deferred, so I don't think you can deal with it.

The Chair: Which section is that, please?

Mr McLean: 57.

Interjection: 57, 58.

Mr Griggs: If I could—these sections relate to the transitional PUCs, so in the case of, I believe it was, the municipalities of Nottawasaga, Sunnidale, Stayner and Creemore, that was your concern. This would provide for the public utility commission in the interim until the new commission is elected. I understand that your amendment dealt with the election of the new commission and therefore should not affect these sections.

Mr Jim Wilson: My amendment deals with the composition of the new commission and, you're correct, it doesn't deal with the interim commission. As long as there be nothing consequential to my 8.1 amendment with respect to 58, because it strictly deals with transitional.

Mr Griggs: I believe that's the case, looking at it, and I'm getting a nod from our solicitor as well, that that is the case, it would not affect these sections.

The Chair: Be it noted that the solicitor has nodded.

Mr McLean: We had a previous amendment with regard to Ramara but that, I believe, had to do with a date. Was that not correct? That's way back somewhere, where there was putting two people on the commission.

Mr Griggs: Yes, the amendment in that case was addressing an issue where—that the way the bill was currently worded prior to the amendment being passed, it referred to a bylaw passed by the township of Ramara during 1993, and it was brought to our attention that that township will not exist until 1994, so it does not affect these sections.

The Chair: Can I then put the question? Shall sections 55, 56, 57, 58, 59, 60, 61, 62 and 63 carry? In favour? Opposed? Carried.

Now, if I could then suggest that we break—it is almost 25 after. Do you wish to break to quarter to 1 or 1. One o'clock? Okay. The committee will stand adjourned until 1 o'clock.

The committee recessed from 1223 to 1313.

The Vice-Chair (Mr Ron Eddy): Members, ladies and gentlemen, the social development committee has reconvened on Bill 51, An Act respecting the Restructuring of the County of Middle—

Interjections.

The Vice-Chair: County of Simcoe. That other one will come later, no doubt.

Dealing with the bill clause by clause, we had completed, I believe, section 63. We welcome Tim Murphy, MPP, in place of Charles Beer. Thank you for subbing.

Mr Conway: Tim Murphy actually grew up in Simcoe county.

The Vice-Chair: Yes. We will be enlightened, no doubt, at some time or other during the day regarding that.

The next item is a new section, as I understand it: part VII.1, deferred boundary adjustment.

Interjection: Are we on 63?

The Vice-Chair: Part VII.1. Are you going to introduce that, Mr Parliamentary Assistant?

Mr Hayes: Do you want me to read it, Mr Chair?

The Vice-Chair: Yes. Would you read that into the record, please.

Mr Hayes: This whole thing?

The Vice-Chair: It's required.

Mr Hayes: So I've got to read right up to 63.8, right? Okay.

I move that the bill be amended by adding the following part:

"PART VII.1

"DEFERRED BOUNDARY ADJUSTMENT

"63.1 In this part, the 'annexed area' means the portion of the township of Tiny described in schedule 15.

"63.2(1) On January 1, 2004, the annexed area is annexed to the town of Midland and forms part of ward 1 of the town of Midland.

"(2) Subsections 2(7), (8) and (9) apply with necessary modifications to schedule 15.

"63.3 All real property including highways, streets, fixtures, waterlines, sewers, easements and restrictive covenants running with the land of the township of Tiny located in the annexed area vests in the town of Midland on January 1, 2004.

"63.4(1) On January 1, 2004, the bylaws and resolutions of the town of Midland extend to the annexed area and the bylaws and resolutions of the township of Tiny cease to apply to such area, except,

"(a) bylaws of the township of Tiny, which remain in force in the annexed area until repealed by the council of the town of Midland, that were,

"(i) passed under section 34 of the Planning Act or a predecessor of that section,

"(ii) passed under the Highway Traffic Act or the Municipal Act regulating the use of highways by vehicles and pedestrians and regulating the encroachment or projection of buildings or any portion thereof upon or over highways,

"(iii) passed under section 45, 58 or 61 of the Drainage Act;

"(b) a bylaw of the township of Tiny passed under section 3 of the Development Charges Act which remains in force in the annexed area, despite sections 6 and 49 of that act, until the earlier of,

"(i) the date it is repealed by the council of the town of Midland, and

"(ii) the date it expires under subsection 6(1) or (2) of the Development Charges Act or December 31, 2006, whichever occurs later;

"(c) a bylaw or resolution conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of the township of Tiny.

"(2) If the township of Tiny has commenced procedures to enact a bylaw under any act or to adopt an official plan or amendment to it under the Planning Act and that bylaw, official plan or amendment applies to the annexed area and is not in force on January 1, 2004, the council of the town of Midland may continue the procedures to enact the bylaw or adopt the official plan or amendment to the extent that it applies to the annexed area.

"63.5(1) All taxes, charges or rates levied in the

annexed area under any general or special act that are due and unpaid on December 31, 2003, shall, on January 1, 2004, be due and payable to the town of Midland and may be collected by the town of Midland.

"(2) The clerk of the township of Tiny shall, before March 31, 2004, prepare and furnish to the clerk of the town of Midland a special collector's roll showing all arrears of taxes, charges or rates levied in the annexed area up to and including December 31, 2003, and the persons assessed for them.

"(3) On or before April 30, 2004, the town of Midland shall pay the township of Tiny an amount equal to the arrears of taxes, charges and rates contained on the special collector's roll together with any accumulated interest or penalty but excluding any amount struck off the roll as uncollectible under section 441 of the Municipal Act by the treasurer of the town of Midland.

"63.6 Despite subsection 37(2) of the Municipal Act, a person who is a member of the council or the public utility commission of the township of Tiny on December 31, 2003, shall not during the term of office ending November 30 in the year of the next regular municipal election be disqualified from holding the office on the council or commission, respectively, because of any loss of qualification resulting solely from the annexation under this part.

"63.7 For the purposes of the assessment roll to be prepared for the town of Midland in 2003 for taxation in 2004, the annexed area shall be deemed to be part of the town of Midland.

"63.8(1) Despite any act, the Minister of Municipal Affairs may by regulation provide for any of the matters described in paragraphs 3 to 24 of section 14 of the Municipal Boundary Negotiations Act with respect to the annexation under this part.

"(2) In cases of conflict, a regulation made under subsection (1) prevails over this act.

(3) A regulation made under this section may be retroactive to January 1, 2004."

1320

I think it's quite self-explanatory but just to assist the members, the township of Tiny and the town of Midland agreed to defer a portion of the county's recommended boundary adjustment until January 1, 2004. County council has endorsed the proposed deferral by resolution. These additions implement the agreed-upon deferred boundary adjustment with the standard treatment of assessment rolls, real property bylaws, unpaid taxes and council members. If you want, I can give you a brief description of each section.

Section 63.1 identifies the deferred annexed area to be transferred from Tiny to Midland.

Subsection 63.2(1) implements the deferred annexation on January 1, 2004, and adds this area to ward 1 of Midland.

Subsection 63.2(2) relates to the publishing of the schedule describing the deferred annexation in the Ontario Gazette.

Section 63.3 transfers all Tiny-owned real estate in the deferred annexed area to Midland on January 1, 2004.

Subsection 63.4(1) provides for the extension of Midland's bylaws into the deferred annexation area on January 1, 2004. This section also provides for the standard exceptions for zoning bylaws, bylaws regulating the use of highways and encroachment of buildings upon highways, development charges bylaws, and bylaws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by Tiny's council.

Subsection 63.4(2) provides for Midland to continue procedures commenced by Tiny to enact a bylaw or to adopt an official plan or official plan amendment that applies to the deferred annexation area.

Section 63.5 provides for the standard treatment of unpaid taxes in the deferred annexation area.

Section 63.6 provides that no member of Tiny's council or PUC may be disqualified from holding office because of any loss of qualification resulting solely from the deferred annexation area.

Section 63.7 provides for the standard treatment of Midland's assessment roll prepared in 2003 for taxation in 2004.

Section 63.8 provides the minister with the authority to pass regulations providing for any of the matters regarding the content of interim municipal boundary adjustment agreements under the Municipal Boundary Negotiations Act.

The Vice-Chair: That's it? Thank you. Mr McLean.

Mr McLean: I'd like to get clarification on this, if I could, from the parliamentary assistant. You talk about the deferred part. Is this the drawing that was—lines that were drawn by the county study committee are staying there, and part of that is being deferred until the year 2004? Is that correct?

Mr Hayes: Mr Griggs will answer that.

Mr Griggs: In fact, yes, the town of Midland and the township of Tiny agreed that on January 1, 1994, a portion of the area that county council recommended be added to the town of Midland from the township of Tiny occur, and then on January 1, 2004, that the remainder of that area transfer from Tiny to Midland. That was an agreement between the two councils, with resolutions from both councils supporting.

Mr McLean: The compensation package that I heard about for nine years, was that compensation package based on the small boundary or is it based on the larger boundary?

Mr Hayes: Wait for a clarification now. It's the

small one, isn't it?

Mr Griggs: It's based on the first annexation, the January 1, 1994, annexation.

Mr McLean: I thought there were five years at 100% and then it was phased down for the next five years.

Mr Griggs: Yes.

Mr Hayes: Four.

Mr McLean: My understanding was that the 100% was based on the smaller area, that is, the area they're taking in now, and the other percentage was based on the whole area, or is it based on the deferred area?

Mr Hayes: It's based on the smaller area, I believe, isn't it?

Mr Griggs: The whole compensation package is based on the assessment in the annexation occurring January 1, 1994; in other words, the first annexation. There are in essence two annexations here: the first one on January 1, 1994, and the second one on January 1, 2004.

Mr McLean: So the percentage they get in the sixth year will be based on the whole annexation?

Mr Griggs: No, on the first annexation area, the January 1, 1994, annexation area.

Mr McLean: That's what I wanted to get clarified, and you're saying—after the five years, is it based on the whole area or based on the additional area?

Mr Griggs: Maybe I can refer this question to Rick Temporale. He may be able to clarify it for you.

Mr Temporale: The compensation that will be paid to Tiny township is based on the amount of commercial industrial assessment moving from Tiny to Midland as of January 1, 1994, and on 1993 commercial industrial mill rates. That amount stays fixed for five years and then is phased down by 20% a year until the four-year phase-out is complete. So it's based on the small annexation and mill rates from 1993.

Mr McLean: Then it's clearly after 2004, with the addition, they will not get any funding for that.

Mr Temporale: The two councils agreed that there would be no funding for the property that is transferred on 2004. That was part of the agreement.

Mr McLean: That was what my question was. Thank you.

The Vice-Chair: Any other questions or comments? If not, shall part VII.1 carry? Carried.

I believe there are no amendments on sections 64 through 66. Does anyone have a question about those sections? If not, shall sections 64, 65 and 66 carry? Carried.

On section 67, I believe there's an amendment. Parliamentary assistant, do you have an amendment to section 67 at this time?

Mr Hayes: Yes. I move that subsection 67(1) be amended by adding after "and (9)" in the second line "subsection 11(15)".

The Vice-Chair: Any questions? Shall amendment to subsection 67(1) carry? Carried.

Further amendments?

Mr Hayes: I move that subsection 67(2) be amended by adding after "and (9)" in the second line "subsection 11(15)."

The Vice-Chair: Any questions? Shall subsection 67(2) carry? Carried.

Shall section 67, as amended, carry? Carried.

We now return to section 2 of the bill at this time.

Mr Waters: I thought we agreed to do it at the end, so I would propose that we do the amendment on section 53 at this point.

The Vice-Chair: And there are some other amendments to other sections as well. Agreed? We'll go to section 53 at this time. Is there an amendment?

Mr Waters: I believe it was circulated. I wish to withdraw the first one that I passed out this morning and in its place I wish to move—everything would stay the same in it except for this one line. Do you want me to read it out?

Interjection: Read the whole thing.

1330

Mr Waters: I move that section 53 of the bill be amended by adding the following sections:

"Contracts of employment etc

"53(12) Despite this or any other act, the minister may, by regulation, amend or repeal all or part of a contract of employment or a collective agreement entered into between one or more employees of a former municipality or a local board thereof or a bargaining agent of the employees of a former municipality or local board thereof and a former municipality or local board thereof, if in the opinion of the minister the contract of employment or collective agreement contains a provision establishing compensation, including severance payments, that is unreasonably high in comparison to compensation given to persons in similar situations."

It goes on to read:

"Retroactive

"(13) A regulation under subsection (12) may be retroactive to January 1, 1994."

The Vice-Chair: Any questions or comments?

Mr McLean: Mr Chairman, I think there should be a little discussion on this. What are you pertaining to, comparing \$100,000 to \$50,000, that if the minister deems it to be inappropriate that there's a higher salary, that should be lowered?

There was provision in the south Simcoe one where

they couldn't lower them, they could only bring them up. What you're saying here is that if the minister deems it too high—is it the minister who is going to make this decision?

Mr Waters: It would end up being the minister, yes.

Mr McLean: It would have to be a pretty severe case before he would become involved, wouldn't it?

Mr Waters: That's right.

Mr Owens: I still have some difficulty with this, with due respect to my colleague. I think, as Sean Conway said earlier this morning, that once the good taxpayers of Orillia township find out the details of this contract there's going to be a holy war in the area.

In terms of using editorial language in legislation to describe "unreasonably high" or, in the case of the last clause that Mr Waters submitted with respect to unfairness, I have a great deal of difficulty with it. In terms of the province trying to settle what I agree is—I wish they were negotiating for me because it's a very good severance package, but unfortunately I don't have their negotiating skills.

I have some difficulty with this. I think we're setting down a road on which you're going to use a sledgehammer to try and resolve a very troublesome problem, but I'm not quite sure it fits within the context of what this legislation is designed to do. We can all chit-chat about the social contract and what the social contract did to employment contracts, but I'm just not sure how you address an employment contract within a piece of legislation that is designed to look at boundaries and services and tax assessments.

The Vice-Chair: Did you wish to respond, Mr Waters?

Mr Waters: One of the problems that I see, if we don't do something about it, is that even if the good people of the township get up in arms over this, it's still going to cost them 36 months' severance. If you allow this to go through, you have to deal with the package that exists. The only way the township can get out of that package, I see, is by this particular motion. It also offers an opportunity for relief to the new township when it's created.

Mr Hayes: Mr Chair, may I ask Mr Griggs to give a clarification on this?

Mr Griggs: I just wanted to point out that in fact the legislation as it is written, without any amendment, does provide for an overriding of existing contracts in that in the section dealing with the transfer of employees, namely, clause 53(9)(a), it establishes:

"A person who becomes an employee of a local municipality or a local board of a local municipality under this section shall,

"(a) receive a salary or wage at a rate no less than the person was receiving on the 1st day of July, 1993."

In fact, if there is a contract in place that would deal with a salary or wage increase after July 1, 1993, the new municipality would not be required to honour that agreement. There are clauses in the sections in the agreement now that are overriding the existing contract. I point that out so that everybody's aware of that.

Mr Conway: Can maybe my friend Waters take me—because I'm very sympathetic to this. It's like the boundary question. It's trying to find out, who did it? More importantly, who's responsible? Well, we're responsible. We are sovereign in these matters. The provincial Legislature has the ultimate responsibility. I've got to tell you, if I were a taxpayer, this is where I would come. I'd say: "No, don't send me off to some nice man from Municipal Affairs or some nice consultant. You are the 130 people who we elect to make these decisions finally."

What I want to know though—I don't have the benefit of this memorandum about "the deal," so can somebody just take a very few moments to remind me again of what it is we know about the case that is concerning I think more than just the member for Muskoka-Georgian Bay? I want to be sure that the remedy concerns itself with the real problem that we may have here.

Mr Waters: First off, when you look at it, restructuring started back in 1989, I guess it is, and this deal was struck in 1991, so the discussions about restructuring the county were well under way. The deal that was entered into, as I understand it, gave a generous notice of termination provision of 36 months. The provision that an employee's duties and responsibilities can only be altered by mutual agreement—

Mr Conway: That is between the employee and the employer, the old municipality of Orillia?

Mr Waters: But they also have rights with the new municipality, so therefore, in terms of the other people coming in from the other part, where's the fairness for their jobs? If the people who have the contracts don't get the job, that's altering their employment. Therefore they can kick in and get their 36 months' severance.

It goes on: "By mutual agreement, the fact that the employee enjoys the right to terminate the contract in the event of an amalgamation of the township with another municipality, in which case the employer must pay a lump sum equal to 36 months' remuneration, and the fact that the contracts purport to bind the successor municipality, which is deemed to include the municipality amalgamated with the township of Orillia...."

Mr Conway: In summary then, we have an arrangement that has apparently been agreed to which would essentially say the following: that if I, as your employee, fail to secure the job I've now got in some reconfigured municipality, we agree to pay me 36 months—

Mr Owens: If there are material changes to the job description.

Mr Conway: Right, but let's say I'm the clerk. Remember what we're talking about: We're amalgamating a bunch of these in a number of places, so if I am the clerk-treasurer in township X—and I could pick several places because there are going to be a number of places, and we talked about this throughout the hearings, where there are going to be two or three clerks available for presumably one position as clerk-treasurer. I'm trying to imagine what this might be.

So let's say I'm the clerk of township X now. As a result of this bill, I'm going to have to compete for that job with other people who may hold it in contiguous townships. I don't succeed: I lose my old job as clerk-treasurer. I may be offered a position, let's say, as deputy clerk-treasurer, but I could argue under this that that's not a similar status; therefore, under the provision of the agreement, I am entitled to a 36-month severance.

There are a couple of issues here. One of them is that I don't know very much about severance packages, but that's a pretty generous severance package, isn't it?

1340

Mr Waters: Well, it far exceeds anything I've ever seen. In fact, we know that in the paper right now there's a situation in the Toronto harbour that isn't as good as this.

Mr Conway: I'm just wondering in the ministry—do you know anything about any of this stuff?

Mr Griggs: We became aware of this situation through the township of Matchedash, when it became aware of it as well. Again, we don't know where similar situations exist across the county.

Mr Conway: I think what you could argue there—I can see the situation where a municipality—you're going to have to be guided by some kind of reasonable policy around separation or whatever. If you look at the practices elsewhere, if people start to lose their jobs, you've got to protect yourself against the obvious court case. My friend here, Murphy, is a lawyer and he would tell me—

Mr Owens: But the other issue is, why do you want to use the force of the Legislature and a legislative committee to try to disadvantage—there are what, eight people who are involved? This is a lot of fire power that we're talking about.

Mr Conway: I agree, but what other remedies have we got?

Mr Owens: I'm not suggesting that it's not an unreasonable or just a wonderful package for somebody to have, but I'm saying this is not the remedy, to use this committee and this legislation to go after—

The Vice-Chair: Mr Wilson?

Mr Jim Wilson: Could I defer to Mr McLean?

Mr McLean: He never did have his hand up.

The Vice-Chair: Mr Wilson had his hand up some time ago, I would say; quite some time ago actually.

Mr McLean: I want to have a clarification if I can. The new municipality of Severn, once it takes power as a municipality, do these contracts stay in place, or can they be renegotiated by the new municipality? My understanding is now that there's no deadline when they run out. I thought there was, but I understand there is no deadline. So if there's no deadline, do they go on for ever with the new municipality?

The Vice-Chair: Would the parliamentary assistant wish to respond to that point?

Mr Hayes: Linda Perron of the legal department will address that.

Mrs Perron: To answer your question, Mr McLean, I think you have to refer to section 48 of the act. It provides that all of the assets and liabilities of the former municipality become the assets and liabilities of a local municipality. So a liability would be a set of obligations under an agreement, and it would also include the terms of the agreement. So if you had a 10-year contract, it would have to be respected for that duration of time, unless the beneficiary of those terms agreed to negotiate a different package.

The Vice-Chair: Mr Owens, did you have anything further? I know you have spoken a couple of times. You are caught up? Okay then, Mr Wilson.

Mr Jim Wilson: In light of what I'm hearing now since the break, and in discussions with ministry staff, I'm inclined to support the amended amendment here from Mr Waters. It strikes me in a funny way that whoever negotiated these contracts in Orillia should be asked to be on the MPP pension board.

Mr Conway: These guys are the people who ran the MPPs' pension board for 40 years.

Mr Jim Wilson: We would probably all lose our jobs, and appropriately so, after they came up with such a handsome agreement. So I'm inclined to support it and I'm inclined to ask you to call the question.

The Vice-Chair: I have two speakers, Mr Murphy and Mr O'Connor.

Mr Tim Murphy (St George-St David): It's more a point of clarification, if I may. I understand they've negotiated the terms of an agreement where, if there's a material alteration to the contract, the severance of 36 months kicks in. To follow up on my friend Mr Conway's comments, if they're offered deputy clerk, that could be treated as a material alteration, because it's a demotion in essence. That's the reason why I thought, if I'm interpreting that correctly, they could in theory accept the position of deputy clerk-treasurer but say none the less it's a material alteration and get the severance. That's my understanding of what the agreement is, by what you've told me. They can keep the job

and get 36 months, on the basis of what you told me.

Mr Waters: From what I know, that's what I would interpret, yes.

Mr Conway: This gets even more interesting.

Mr Larry O'Connor (Durham-York): I guess the difficulty I have with this is that we've had a great deal of discussion and appreciate Matchedash in bringing this to the committee. Maybe there is someone here from the ministry who may have been at some of the restructuring meetings. Was this ever brought up by anyone, or was this just found out as we were here more or less going through the county, or was this ever discussed by the restructuring committee?

Mr Griggs: As I indicated earlier, we became aware of this issue when the township of Matchedash did. We weren't aware of the issue before then. It wasn't as if the decisions on the restructuring by county council or subsequent decisions regarding the drafting of the legislation took that into account, because we were not aware of the situation.

Mr Conway: I raised earlier today the question of the Rod Lewis issue, because I can remember people at the time not understanding what they had done, that they'd written the gentleman's contract into legislation for ever. It was the most grotesque embarrassment to all of us here who did it. That's why I'm, as I say, very sympathetic to what Mr Waters is recommending here.

These are good people running these townships and I don't really want to interfere in their affairs, but if these kinds of arrangements have been made, for whatever reason, and if they go beyond the bounds of reason, and the bounds of reason would be determined by the jurisprudence around severances for people, long-term employees, whatever, all the motion does, it seems to me, is provide a permissive power for the minister in exceptional cases to review and repeal unreasonable arrangements.

I favour that, because I expect most people most of the time are going to behave very responsibly, but if we don't do this, I don't know what other remedy we have to protect the taxpayers against that exceptional circumstance, and if we already have an example of something that looks pretty exceptional, in the early days of the new restructured Simcoe, I'm going to tell you, it is going to send a very, very bad signal to a lot of people out there who come to this being very sceptical that this is not going to save any money, and it's going to drive up costs significantly.

Mr Hayes: In answer to the question there earlier, maybe Naren Kotecha could respond to this about the timing and when we were made aware of this situation.

Mr Naren Kotecha: My name is Naren Kotecha from the Ministry of Municipal Affairs. We have been aware of the existence of the contract for the last five to six months. I had a meeting with the council of Orillia

township about the contract specifically, and we had suggested to them that they share the contents of the contract with the township of Matchedash and Coldwater and try to arrive at some amicable solution to the problem they are facing that is in front of them. We left the matter with the township of Orillia to pursue further with the township of Coldwater and Matchedash.

The Vice-Chair: Any other questions? If not, shall the amendment to section 53 carry? Carried.

Shall section 53, as amended, carry? Carried.

Now, do we return to section 2, or are there other amendments that were stood down?

Mr David Wilson: Section 11.

The Vice-Chair: Section 11, yes. There is, I believe, a PC proposed amendment.

Mr Jim Wilson: I move that section 11 be amended by adding the following subsection:

“Composition

“(8.1) The commission of the township of Nottawasaga, Stayner, Sunnidale and Creemore shall be composed of,

“(a) the mayor of the township of Nottawasaga, Stayner, Sunnidale and Creemore;

“(b) two members appointed by and from the township; and

“(c) two other members who are qualified electors in the area served by the commission, elected by general vote.”

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At yesterday's hearings in Collingwood, there was agreement expressed by the representatives from Sunnidale, Nottawasaga and Creemore with respect to amending the composition of the new hydro-electric commission, and the only question that was raised by the government side in subsequent discussions was whether or not the town of Stayner was supportive of this. So I want to just circulate at this time a letter, dated today, from the clerk-administrator, Mr Spellman, from the town of Stayner, indicating Stayner's support.

I would say that the only difference between what was asked for at yesterday's committee hearings, the same being agreed by Stayner today via this letter, is in the wording of the motion. In part (b) it says “two members appointed by and from the township.” You'll note the original agreement among the municipalities was to have “the mayor and deputy mayor.” I think the suggested wording in my amendment is perhaps better, giving flexibility to the township to appoint two members, and if the new township decides it's “mayor and deputy mayor,” that's fine, it's their decision.

Mr Wessinger: I'd just like to express some concern. I have some concern with the principle of having a minority of a board elected and the majority appointed. Perhaps I'll ask if there are precedents for

this in any other public utilities commissions, or is this something unique and unusual? I wonder if the parliamentary assistant could tell me if there are other situations similar. If this is unique, I certainly don't like the precedent of elected members being in a minority position because I think it takes away from the whole meaningfulness of the elective process, so I'd like to know if there are other similar situations before I vote on the matter.

Mr Hayes: Mr Chair, I'll refer that to Mr Griggs.

Mr Griggs: In fact, I spoke to some of the elected officials in this municipality regarding this issue, and from discussions with policy advisers within our ministry, it was felt that the existing legislation would provide for this hybrid. It's my understanding that the Public Utilities Act or the Power Corporation Act currently provides for public utilities commissions to either be appointed by council or elected. I'm personally not aware of any hybrid situation where you have some members elected and some who are appointed. However, I can certainly consult with other staff members in my ministry and try to find out whether such an exception exists.

The Vice-Chair: In fact, there is such a precedent. It is in the township of South Dumfries. The hydro commission of the township of South Dumfries is composed of three members appointed by the council and the reeve of the township. That was a bill, the township of South Dumfries bill. It can be checked.

Mr Conway: A veritable font.

The Vice-Chair: Brilliant memory.

Mr Jim Wilson: I think I just made a slight error in my comment previous, and that is, it's obvious the way the motion reads that the mayor will be a member of the hydro-electric commission, as will two members of the council, as will two members who are qualified electors, elected by general vote. I just wanted to clarify that. I think I said “mayor, deputy mayor and two others.”

The Vice-Chair: The amendment as you read, though, is correct.

Mr Jim Wilson: Yes. And in addition to today's expressed support from Stayner, members will be aware that contained in appendix B of the presentation that was made by Reeve Carol Currie of the township of Nottawasaga, dated August 25, 1993, appendix B, part (b), contains a motion which is identical to the amendment before us, and the vote at that time was 15 to 3 for the affirmative of this motion, and subsequent to that even the holdouts at Stayner have come on side, so we have agreement.

The Vice-Chair: As we have established that there is such a precedent, are there any questions?

Mr Hayes: Mr Chair, I'd actually like to make an amendment to this, that clause 11(8.1)(c) should read

"two other members who are qualified electors in the local municipality, elected by general vote," that it not be just by the specific area that the commission serves, and that would keep it pretty well in line with the intent of section 11, if Mr Wilson has a problem with that.

Mr Jim Wilson: I also have an amendment, members will note, to 11(9) which adds the words "in the area served by the commission." That section in the original drafts of the county's study contained that language and I guess at this time it would be appropriate to explain to this committee and the parliamentary assistant why "in the area served by the commission" was deleted from 11(9), and then perhaps we will make an amendment to my amendment.

The Vice-Chair: Thank you. Parliamentary assistant, is there something further?

Mr Griggs: In fact, there are a number of reasons why you would choose to have the members of a commission, whether it's two members of a five-member commission or four elected members, why you would want them elected from the entire area of the municipality rather than just the area served by the commission, where the commission is not serving the entire area of the municipality, as is the case here.

The reasons are that, first, it would be consistent with the regional acts in that the electors of the whole municipality are able to vote on the members of the commissions. Secondly, although in this case they are hydro-electric commissions, subsection 10(2) does identify them as commissions established under part III of the Public Utilities Act and such commissions can take on other services other than just hydro-electricity, so in fact you may have a commission that's serving one portion of a municipality with hydro-electricity and another portion of the municipality with water service or some other service, in which case, how do you determine what the service area is or which electors vote for members of that commission?

In addition, the bill also provides for a step-by-step future expansion of the service areas of the commissions, so it could be argued that members who do not currently live within the service area may have an interest in endeavours by the commission to expand its service area in the future.

Mr Jim Wilson: I accept that explanation from the ministry and appreciate it. When Reeve Currie appeared before the committee there was no mention of other services that may be taken on by the commission, so I appreciate the explanation. The worry and the intent of asking that the phrase "in the area served by the commission" be put back into the act was that in this particular area two of the current townships, Sunnidale and Nottawasaga, are served by Ontario Hydro and only Creemore and Stayner have PUCs, and they wanted to ensure, in fairness, that the two members of the new hydro commission elected at large would come from

either Creemore or Stayner. But given your explanation, I'm prepared with that on the record to make a friendly amendment here, if I could have that wording again.

The Vice-Chair: To be clear on this matter, what are you establishing? Are you establishing public utilities commissions, which can have several powers, or are we establishing hydro-electric power commissions, which is hydro only? I thought it was hydro-electric power commissions, which cannot—

Interjections.

The Vice-Chair: In this case, is it a PUC?

Mr Jim Wilson: Given the explanation just made, it sounds like we're establishing PUCs.

The Vice-Chair: What is the terminology?

Mr Waters: They both say "PUC."

The Vice-Chair: Mr Wilson, you said you're prepared to change—

Mr Jim Wilson: Yes, except I just need the word change.

1400

Mr Hayes: Okay, (c) would read "two other members who are qualified electors in the local municipality, elected by general vote."

Mr Jim Wilson: I agree to that suggestion and submit my amendment as that.

The Vice-Chair: So that proposed amendment to the amendment is now incorporated in your amendment.

Mr Jim Wilson: Yes.

The Vice-Chair: Are all members clear on the one amendment now that contains that wording change?

Mr Jim Wilson: There's one more suggestion from legal counsel; that is, whether part (b) could read "two members appointed by and from the council of the township." That would make perfect sense to me.

The Vice-Chair: Anything further? If not, shall the amendment to section 11, being (8.1), carry? Carried.

Further amendments to section 11?

Mr Jim Wilson: I'm inclined not to introduce 11(9), given the discussion we just had; however, I just want to confer with counsel.

Given what we've just done in subsection 11(8.1), adding (8.1), clause 11(9)(a) of the motion before you is consequential. Therefore, I move that subsection 11(9) be amended by striking out "(b)" in the second line and not introducing the rest of that motion.

The Vice-Chair: Any question or comment? If not, shall amendment to subsection 11(9), as read, carry? Carried.

Shall section 11, as amended, carry? Carried.

Now we return to section 2, is that correct?

Mr McLean: I move that section 2 of the bill be amended by adding the following subsection:

"Boundary matters

"(7.2) Despite this section, in preparing the schedules under subsection (7) the minister shall ensure that,...

"(b) the boundary dividing the town of Penetanguishene from the town of Midland be located 600 feet south of Brunelle Road."

The other day, speaking on that, we had the mayor of Penetanguishene in and we had the mayor of Midland in. There appeared to be a great difference with regard to the positions put forward by both of those mayors. The information we had was that there are probably six hookups already for that property from the town of Penetanguishene, and after the mayor of Midland had finished his proposal, the mayor of Penetanguishene certainly didn't agree with his description of events that he thought had happened; therefore, I was hoping we would put it back where it originally was, within the boundaries of the town of Penetanguishene.

Mr Jim Wilson: Really just a note here, that we skipped a new amendment, 2(1)(a).

The Vice-Chair: I'm aware of that; we will be back to it. I have permission to proceed with this one now that it's been introduced, if that's acceptable to the committee. Is that all you had, Mr Wilson?

Mr Jim Wilson: Yes, at this time.

The Vice-Chair: Mr Waters and then Mr Conway.

Mr Waters: I personally am opposed to changing the line. What I heard yesterday is that this section of property was to be a buffer zone. What I heard from the town of Penetang was that it was going to be a buffer zone that was going to be built on and it would gradually peter out so that the last few feet of this area would become the buffer zone. I think a buffer zone is a buffer zone, and I would have problems with it because both the developer and the town stipulated that they intended to build this property, that they wanted it to build. Therefore, I can't support the amendment.

Mr Conway: I heard something of the same that Mr Waters just reported. I just wasn't clear, after the various submissions, that a compelling case had been made for this boundary amendment. Just speaking for my own imperfect ears, I came away thinking that this was a real dispute about what kind of a buffer zone it was going to be. I get the feeling, particularly from Mr Marchand, that there was an expectation from Penetang's point of view that it was going to be a more developable area than it might be from Midland's point of view. I may not have understood that completely and we heard a lot about a variety of boundaries, but I didn't feel I heard enough compelling testimony to make me favour this particular amendment, I'm sorry to say, Mr McLean.

Mr McLean: I have always won a few and lost a few before, but if you don't try, you certainly don't make many gains.

The Vice-Chair: Does anyone else wish to speak to this matter?

Mr Hayes: I just want to bring something to the attention of all the members on the committee. It's something I re-emphasized several times when we were doing our meetings, that since the submission of the county study—

Mr Conway: Don't tease the bears now.

Mr Hayes: But I just want to make it clear. Municipal Affairs and the county have maintained the position ever since the submission that the county council's proposed boundaries would only be altered if all of the affected municipalities agreed and it was adopted by the county council. I just want to make that clear so we may not spend too much time discussing it.

The Vice-Chair: Mr Conway wishes to speak.

Mr Conway: I want to speak for myself and I suspect at least one of my other colleagues in the caucus who is not now able to exercise anything but neutrality. I understand what the parliamentary assistant has said, but I think he did hear—I heard—a number of very powerful submissions made by sensible people that the process by means of which these boundaries were determined was not completely fair. I tell you, I just heard enough to make me believe that there was something wrong in that state of Denmark as some of those lines were finally agreed to.

Given what we've talked about before here—and I don't consider it my job to start reconfiguring a lot of the work that's been done by a lot of people, but it is my job to listen to what people have said, and there have been submissions that have been made by good people that make me really uncomfortable about the process that was followed in some of these cases.

I've used this example many times before. I remember a few electoral redistributions around here and I remember how they were done.

Interjection: So do I.

Mr Conway: I'll tell you, it was a helpful thing to have been an incumbent, because certain arrangements were—

Interjection: I know.

Mr Conway: Now you'd never get anybody to admit to that publicly, but I've got to tell you, it happened.

All I'm saying is that as I look at this, and particularly when I think about some of what was said, I have a real problem in saying the Legislature, which has the ultimate responsibility, can now not pass any judgement, that our job is to simply say, "We confirm what you've agreed to and we'll only contemplate change if the two parties affected or the three parties affected agree."

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In retrospect, I look at this and say to myself—I don't

know who I heard this from, but it was good advice—at the beginning, it probably was a very important thing to have gotten yourself on to the right committee and to have stayed there from the very beginning and not left the room at any point. Some people did leave the room, and I think the boundary adjustments in some cases reflect some of that, and that's just human nature.

But I do not feel that I'm stepping out of line if I consider favourably an amendment on the basis of the evidence that I've heard, and I'm not telling any tales out of school. The one that most concerned me was the south tip of Orillia township on the basis of what I heard from a number of people, including a very strong submission from the reeve of Oro township yesterday.

Mr McLean: I'm very disappointed to hear the parliamentary assistant make the statement that he has made, although I'm not overly surprised that that was not the statement I was going to hear. But that's not what we travelled the county for. If the ministry had no intention of making any boundary line changes whatsoever, that should have been in his opening statement when he started, before the hearings were even held.

A lot of people came before that committee, and I believe there were some 55 municipalities and some 28 individuals who came to make presentations, hoping and anticipating that there would be some changes made in some of the boundaries. The ministry did not see fit to let them know that there would not be any changes. They never said it. There had always been the indication that boundaries were set by the county, that we're taking the county's report. What is the point in having hearings across the county if not one change is going to take place other than some of the housekeeping amendments we've seen, which were already going to be here anyway?

I want to proceed with the three amendments I have and I want to have votes on them, because I think it's important that the people should know that we have tried to make some changes. I want to read the other two amendments I have and put them on the record and indicate after that, if you want to vote on them, fine, and I would be prepared then.

There's another amendment I was—

The Vice-Chair: Mr McLean, could we deal with this amendment first, please? There will be opportunity to present all of your amendments, I assure you.

Mr McLean: Thank you.

The Vice-Chair: The parliamentary assistant and then a vote.

Mr Hayes: I'm not surprised that Mr McLean's not surprised, because I mentioned right from the beginning to some of the first people who came forward, that when people talked about having a boundary changed, the agreement the county had made was that the municipalities affected would have to agree. I think that was

made clear right from day one; that's not a surprise. I just wanted to make that point.

The Vice-Chair: Does anyone else wish to speak? If not, shall the amendment to section 2, being "Boundary Matters," subsection (7.2), be carried?

A recorded vote. All those in favour?

Ayes

McLean, Wilson (Simcoe West).

The Vice-Chair: Opposed?

Nays

Conway, Hayes, Murphy, O'Connor, Owens, Rizzo, Waters, Wessenger.

The Vice-Chair: The amendment is lost.

There is, as was pointed out, a proposed amendment to subsection 2(7.1). Is that Mr Wilson's?

Mr McLean: I wonder, Mr Chairman, if it would be possible to do my three. They're all per section 2, to keep them in order.

The Vice-Chair: Stand down (7.1) at this time. The next motion.

Mr McLean: I move that section 2 of the bill be amended by adding the following subsection:

"Boundary matters

"(7.2) Despite this section, in preparing the schedules under subsection (7) the minister shall ensure that,...

"(c) the parcel of land known as part of the east half of lot 19, concession 7, township of Vespra and the parcel of land known as part of lot 19, concession 7, township of Vespra and the parcel of land known as the west part of Lot 19, Concession 6, township of Vespra be included within the city of Barrie's boundaries."

I'd like to speak just briefly to that.

The Vice-Chair: Mr McLean, proceed.

Mr McLean: The reason why I'm presenting this resolution is the fact that the city of Barrie agrees with it. I know that the boundary line in the north part of the city is built to the limits. This was a small development area that would add—and perhaps slow down Barrie's future annexation wants, which it will be applying for, and I thought that it would be a benefit to that whole corner, with regard to the gravel road and the problems that they've had, if it was included within the city of Barrie. I think it's an asset and I believe that the new township of Springwater did not agree to it because it felt that it wanted to maintain the viability of its municipality. However, I believe that the small parcel would be appropriately in the city of Barrie.

The Vice-Chair: Any comments, questions by anyone?

Mr Conway: Paul, do you want to speak to that?

The Vice-Chair: Mr Wessenger?

Mr Wessenger: Mr Conway is sort of teasing me to

speak on this.

The Vice-Chair: We'll term it an invitation.

Mr Wessinger: I think that this probably brings to the attention perhaps the major difficulty with respect to the restructuring report, and that is that the cities were not included in the restructuring, and the whole basis of the report is that we're not to deal with the boundaries of cities, although I think that's regrettable, but that's the way it is.

Now, if members of the committee open up the matter of city boundaries, I certainly will look at the matter with other amendments, but I think this is really a restructuring of the county and the jurisdiction within the county and not designed to change boundaries with respect to the two separated cities. For that reason, I don't want to open up that whole situation. That's the basic reason for it, not because I don't think that the—in fact, I do think that the boundary change has merits but I think there are probably many other areas around the city of Barrie that equally should be considered for consideration.

The Vice-Chair: Mr Conway.

Mr Conway: I appreciate it. I didn't mean to put my friend from Barrie on the spot, because we did have some—I'm sorry, but listen—

Mr Wessinger: That's all right, Sean. It's fair.

Mr Conway: I mean, I depend on the people's pal Al here to keep me straight up around Orillia and Oro. We did have one submission on this, I think, didn't we?

Mr Wessinger: Yes. We had a presentation by the owner of the land.

Mr Conway: That's correct.

Mr Wessinger: You see, it's within the watershed, so from a planning point of view it certainly makes some sense.

Mr Conway: I thought he made some good points.

Mr Wessinger: Yes, there's no question about it.

Mr Conway: I don't favour the amendment, not because I think that it ultimately shouldn't happen, but I don't think this is the way for it to happen.

Mr Wessinger: That's my position too.

Mr Conway: But I'll say again, boy, that north boundary of Barrie, Bayfield Road, is that roughly the corridor that—

Mr Wessinger: Bayfield Street goes just beyond the malls.

Mr Conway: Anyway, I'll say no more.

Mr Wessinger: It's a disaster. I'm agreeing with you.

The Vice-Chair: Anyone else? If not, shall the amendment to section 2, being clause 2(7.2)(c), carry? All those in favour? Opposed? Motion lost.

Mr McLean: Mr Chairman, I have another motion

with regard to section 2.

I move that section 2 of the bill be amended by adding the following subsection:

“Boundary matters

“(7.2) Despite this section, in preparing the schedules under subsection (7) the minister shall ensure that,

“(a) the boundary dividing the township of Oro and Medonte from the township of Severn be the former boundary dividing the township of Orillia from the township of Oro.”

I'd like to speak briefly to that, Mr Chairman.

The Vice-Chair: Go ahead.

Mr McLean: Mr Chairman, you'll find a letter that was circulated this morning from the mayor of the city of Orillia. He felt very sorry that he didn't attend the hearings because he didn't believe that he was supposed to. He talked to me this morning, very concerned with regard to the presentations that were made and the support that was there for this to be part of the Orillia township. He, in a statement in the paper you will read, made a very strong presentation to the ministry to acquire the land. “We've been after it for a long time,” said Orillia Mayor Clayton French. “We joined forces with Orillia township on that. There's no rationale that would stand the light of day to give that to Oro,” he added.

So he has asked me, as well as the municipality has, to present a resolution before this committee to have that returned back to the municipality of the township of Orillia. The indications from the reeve of Oro yesterday—very strong reasons why he felt it should remain. However, the mayor insisted that we proceed with this amendment on his behalf and on behalf of the township of Orillia council.

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Mr Conway: Thank you very much, and I really appreciate this amendment. I must say that the member for Simcoe East is in a difficult spot here and I really appreciate his willingness to do this because it's not an easy thing for any local member, because we heard Oro township make a pretty strong case against it. But this is the one boundary change that on the basis of the evidence that I heard, on balance, I want to support.

The argument that's been advanced for the change of taking the bottom piece of Orillia township and tucking it into the new Oro-Medonte, I just don't think is, on balance, the better argument after a week of these hearings. I must say too, I thought Councillor Thiess—is it?—the delegation we heard yesterday with Gowanlock and the previous reeve of Orillia township and some of those other people, I thought they were very, very compelling on a number of fronts.

To me, the Bass Lake or watershed question, including the local member, I thought Al made a good point there a number of times. I thought that what we heard

around the planning arrangements that had already been considered between the township of Orillia and the city of Orillia about the Forest Home area, it just didn't seem to me that all things considered, there was a strong enough argument made to support the change that was contemplated.

I thought Bob Drury was good. He was very firm, I thought, in his submission, and I thought his body language after he left the witness table was perhaps even more impressive. I get the feeling that Oro-Medonte is not going to like this and that we are probably missing some of the internal dialogue that led to this change. But I just simply have to make a judgement on the basis of what I heard, and when I look at the criteria that were established for this restructuring, when I listen to the arguments around watershed and community of interest, I read some of the press reports that have been made available, I listen to some people like Councillor Thiess talk about the views of people who live down in the Forest Home area, I expect that at some point some of this is going to move into the city of Orillia, some of it sooner than others. Now, we hear from the mayor of the city.

This is certainly an amendment that I will be supporting because I think the burden of evidence supports this.

The Vice-Chair: Anyone else? Mr Wessenger?

Mr Wessenger: Yes. I'd really like to speak on this item too, because I must say that I have some concern about the matter.

I'm afraid I'm not going to be able to support the resolution for some specific reasons. I think that from a planning point of view, quite frankly, this area properly belongs in the city of Orillia. I think that's fair to say, and that's where it ought to be, not with either the town—we're doing boundary changes. Again, that's not going to happen, because it's not dealing with the restructuring of the cities, but I think it does properly belong to the city of Orillia and the township of Orillia has indicated that's where they would like to see it go. Certainly, from a planning point of view, I would be able to support it going to the city of Orillia.

With respect to the question of Oro and Orillia, I'm concerned that the amendment leaves Bass Lake within two jurisdictions. If we look at what the study committee had recommended at one stage, it recommended that the whole of Bass Lake area be within the township of Orillia, and it seems that the planning position put forward by the township of Orillia and Matchedash in support was that the Bass Lake area should be all included in one jurisdiction, and this amendment doesn't do that.

The third reason is really just from driving so many times up that road to Orillia, and I've always thought it seemed out of place, the fact that Orillia township was located in that particular area because on one side of the

road you had Oro, almost, and on the other side you had Orillia township, so I can see some planning arguments. I can see some arguments. When drawing boundaries completely from the beginning, I can see some argument that Oro might have some claim for it. In fact I think there are mixed planning arguments on both sides, although I think the only really valid planning argument is quite frankly the city of Orillia.

I think there are counterbalancing planning arguments on each side. I don't really want to put my judgement over, but the county has decided on this issue. So for that and the reason that I don't think it makes sense to split Bass Lake, I can't support the motion.

Mr McLean: If it doesn't make sense to split Bass Lake, that's exactly what has happened. It has been split. The water system has been split. The only way that you'd have a whole water system would be if it was put into the township of Orillia because that's the headwaters of the North River and they go into Matchedash Bay. I mean, I know the area very, very well.

For you to say that it should stay in one watershed, well, it's not now. It has been taken out. The only way you'd have it in one watershed is if it's in the township of Orillia. I don't think it would have mattered if it had been part of my resolution. There have been other reasons why I could not support it, but to use the watershed as a reason, I don't think is a very good one.

You indicated in the press the other day that the committee has the power to make changes. I would hope that they would have looked favourably upon what all the people in that area believe an injustice. My phone rang this morning in my constituency office with regard to this very issue. The people from the Eight Mile Point area do not want to be in Oro township. They want to remain in Orillia township. They're saying, "Is there no justice?" We'll find out where the justice is being done here.

Mr Conway: If I could make one point too, just that it is from the point of view of those people. I mean they're going to—it may be that this is all going to be in the city of Orillia some day. I think of what Councillor Thiess and others said about—if I were a citizen in there, I'd want there to be a compelling reason to bounce me from Orillia into Oro and then back into the city. I don't think that compelling argument has been made.

I think we owe to the people who live in there not to disrupt and dislocate them unduly. I think we are going to do that as a result of the change that's proposed, that the amendment seeks to reverse. So it's looking at that from the point of view of: If I lived at Eight Mile Point and I heard Mr Wessenger, and he's made a good argument, but I'd be thinking, well, if I'm going to go into the city of Orillia, why do you want to take me from the township of Orillia and put me in the township of Oro-Medonte on my way into the city of Orillia?

That's just an unnecessary and annoying, and perhaps even more than annoying, diversion.

Mr O'Connor: One of the difficulties that we, as members of the Legislature, have is that we are in the position now of reviewing the information that has been brought forward, hearing from witnesses as they come forward bringing different compelling evidence. Of course in our deliberations, we've heard from a number of residents, ratepayers up in that area. There's been talk about plebiscites and what not.

I was going through the evidence as presented and the proposed boundaries that were first put out in the draft study report, dated May 1991, which of course was before the municipal election, taking a look at the proposed boundaries as proposed by then the county, there are obviously some changes.

I'm looking at the map on page 11-1, if any of my colleagues want to take a look there. You could see where, at that time, the proposed boundaries included that little lake at the bottom end into Orillia township, then to become Severn later on. One part of what we're missing here is all the negotiations, you know, when people left the room and all that, that's the dynamic that we don't know about.

For some reason or other, as I take a look at the map, from the proposed one, the original one that was put out for public consultation, and I take a look at Oro-Medonte and I take a look over at the western boundary that they had, it looked like, to me, and maybe not knowing the area quite so well as—Mr McLean, perhaps you could help me out. Over in Springwater, at the bottom end, it would be the southeast corner, I would think, of Flos township, which in the proposed part actually wasn't included in Medonte-Oro, but then that whole line at the bottom end of Vespra ended up in Medonte-Oro. Then of course, when we get to where we're at today, that's not even in there.

Obviously there were some very delicate negotiations going on through this entire process because it looks to me like an incredible amount of land mass that has changed from township to township going through this process. Not knowing the county as well as my colleagues that represent those areas, I think I'd have to question exactly what is it within those boundaries, the commercial assessment that has been looked at going through this very delicate process.

Obviously the municipalities involved, the townships, have taken a look at this quite seriously and there have been a lot of negotiation taking place. I'm reluctant to support it on those bases, because I'm just looking at the land mass within this type of setup that we've got and I'm just going by the maps, so I don't even know the assessments. But it seems like there's been a great deal of negotiation taking place. So I don't know, I'm not convinced that we should be making that change at this time, but I'm certainly willing to listen to my

colleagues' further discussion around this.

Mr Waters: A couple of comments, one on what Mr Wessinger had said earlier on about this little neck. I think if you look back when Orillia township's original boundary was cut, there wasn't such a thing as the city of Orillia. So indeed, this was no longer, as it's shown on the map right now, a narrow—at one point, I guess it's one concession wide. That wasn't the case.

What I would be curious about is, I keep hearing—

Mr Conway: Do I hear shirt-tails flapping in the wind?

Mr Waters: I keep hearing about how the people want to go to the city of Orillia and I'm curious why, over the next year, that can't be a friendly annexation. Can that happen? Indeed the situation in Barrie that we turned down would be a similar situation where these two cities are outside. As my friend from Orillia sitting opposite has said, the people want to go to Orillia, it's in the planning, the township has said that. What happens if in the next year or the next few months they decide to do a friendly annexation and that happened?

The Vice-Chair: I believe the terminology would be apply to annex territory from another municipality.

Mr Conway: I'd just ask my friends again to think about what Reeve Gowanlock, what former Reeve Fountain, what Councillor Thiess said. Remember what we were told. Remember as well what Bob Drury said. I make my judgement on this one on the basis of the evidence I heard, and the evidence I heard I think supports Mr McLean's amendment.

The Vice-Chair: Thank you, Mr Conway. Anyone else? If not, shall the amendment to section 2, which would add clause (7.2)(a), carry? All those in favour?

Mr Conway: Wait. Just repeat the question.

The Vice-Chair: Am I too soon?

Mr Waters: Can I have this set aside just for a couple of minutes?

The Vice-Chair: Mr Waters has requested that the vote on this item be set aside for—how long?

Mr Waters: I just need a couple of minutes to confer on this.

The Vice-Chair: The problem is, the amendment is on the floor.

Mr Waters: Can I have a two-minute recess then?

The Vice-Chair: Recess for two minutes.

The committee recessed from 1435 to 1438.

The Vice-Chair: Members, ladies and gentlemen, the committee has reconvened and Mr Waters had finished speaking, I believe. Is that correct? Mr McLean, you indicated you wished to speak.

Mr McLean: I just wanted to say a couple of words before the vote. One thing that the parliamentary assistant said that just bothered me a little bit was that

these were done by agreement. These boundary lines were not agreed to by Orillia township in any way, shape or form. So to say that they were done by agreement is not totally factual. They were agreed to by the county study committee, voted on the county council, but not agreed to by the township of Orillia.

The Vice-Chair: Thank you for the information. Mr Waters?

Mr Hayes: I won't bother responding. You don't listen very well.

Mr Waters: I guess what would help me make my final decision on this is if I could hear from the people from the ministry that were there. I would like them to comment on this. I don't know whether you have that up to this point on this particular one.

Mr Griggs: When you say "that were there," you mean working with the study committee.

Mr Waters: And indeed on what I had said before about the friendly annexation and that type of thing.

Mr Griggs: I can speak to the process. Under the Municipal Boundary Negotiations Act, any municipality can apply for an annexation involving a neighbouring municipality. The way the process works is there's a negotiation process between the municipalities and when they reach an agreement, it can be implemented.

I should caution you, however, that it becomes a little tricky in this case because, although it would be an annexation between the existing municipalities of Orillia and Oro, there are a number of other parties that may become involved because of the proposed amalgamations. For example, would Medonte be a party to those negotiations? Would Matchedash or Coldwater? These are decisions that the minister could make and the municipalities would make.

Mr Waters: What happens if they did that before 1994? In other words, they leave here today, drive home and start.

Mr Griggs: They could presumably do that. However, the act does provide the minister with the authority to name parties, and given that the other municipalities that will be combined in the new units would have an interest in the areas involved, I imagine that might be an avenue he may want to pursue.

In addition, I should also point out that there are administrative procedures, things such as public consultation, that of course require due notice and time. Given that we are now getting close to September, while it's still possible to have such an agreement implemented before this restructuring takes place, the time lines are very tight given the administrative procedures under the act.

Mr Waters: Okay.

The Vice-Chair: We'll now proceed with the vote, amendment to section 2 adding (7.2)(a). All those in

favour of the amendment? Opposed? The amendment is lost.

Mr Conway: I heard shirt-tails flapping in the wind.

The Vice-Chair: Are there any further amendments to section 2?

Mr Jim Wilson: For the committee's information, I had an amendment (7.3) before you. I will not be introducing that.

Interjections.

Mr Jim Wilson: Subsection (7.3). It was adding a clause. There is an amendment (7.1)(a) and (b). Does everybody have that? For the committee's information, clause (b) will be dealt with in another amendment to 2(1)(a) and therefore I will not be reading that into the record.

Therefore, I move that section 2 of the bill be amended by adding the following subsection:

"Boundary matters

"(7.1) Despite this section, in preparing the schedules under subsection (7) the minister shall ensure that,

"(a) the easterly boundary of the town of New Tecumseth extends to Highway 27 and includes lots 23 and 24 of the former township of Tecumseth."

The Vice-Chair: You read the whole amendment? Did that include (b)?

Mr Jim Wilson: Clause (b) is no longer forming part of that amendment. It's being replaced by another amendment.

Mr Wessenger: I'll be opposing this amendment because it's reopening the whole restructuring of south Simcoe. I might point out, just for the information of members of the committee, that Highway 27 is not a continuous boundary in the restructuring. There's the village of Cookstown, which was included into the part of Innisfil, and there was also Thornton, which was included into the part of Essa.

I suggest that the planning principle in this circumstance was correct in that the principle that the highway not be a boundary is a desirable feature of a boundary on the basis that, certainly for servicing aspects, a highway does not make a very convenient boundary. Also, I don't think we should reopen the south Simcoe restructuring.

The Vice-Chair: Mr Conway?

Mr Jim Wilson: Could I respond? I mean, you couldn't be more wrong. This bill opens up south Simcoe. We've got some boundary changes between New Tecumseth and Essa, between New Tecumseth and Adjala and Tosorontio, all the way around New Tecumseth except this eastern side you guys don't want to touch.

The reason you don't want to touch it is Bradford-West Gwillimbury, without the agreement of New Tecumseth, was given two significant north-south

corridors, the entire Highway 27, which used to be the boundary of Tecumseth, and Highway 11, if members recall the map. It has left New Tecumseth, with the Honda plant and other industry, with no north-south corridor. It was a political decision which the previous government admits was a mistake. The only objection I've heard the government say is one about highways, and Mr Wessinger just indicated that.

I'm not referring to the section of the county north of Cookstown, where, by the way, Highway 27 for some reason is allowed to be the boundary, but south of Cookstown on the east side of New Tecumseth for some reason it's not allowed to be the boundary.

We heard yesterday the witnesses indicating the inconvenience of the snowplows crossing Highway 27 at every concession road and having to turn around two lots later and go back. I mean, it's an absolutely silly line. It was put there for political reasons. My predecessor, George McCague, the mayor of New Tecumseth, would confirm that, as did Bernard Grandmaître during debate on this on June 4 in the Legislature. Why there's a stubbornness I don't know.

I refer members to the attempts by New Tecumseth to come to some sort of arrangement with the town of Bradford-West Gwillimbury. This was circulated earlier. It's a motion by the town of New Tecumseth, dated July 7, 1992, even offering to buy back their former easterly boundary.

The other point is, at the time of the structuring of south Simcoe, there was no rule in place that municipalities had to agree. Certainly New Tecumseth never agreed to this. Therefore, to apply that criterion retroactively to this scenario is in error.

I know Mr Conway wants to say few words, but just for the world of me, I can't understand why we can't move the line back to where it was. I did the private member's resolution in June 1992. The vast majority of property owners who were thrown into Bradford-West Gwillimbury continue to this day to object to being there. They have no historic affiliation whatsoever with that side of the highway, and I don't see why we can't use highways as a natural line. There are no service problems on the highway itself. Neither municipality actually services the highway. It is a provincial highway. So it's not like you have split jurisdiction on the highway. The sanders and plows and that are all provincial.

Finally, though, if it's not accepted by the committee, I would like an answer from the government, given that New Tecumseth can't afford the boundary negotiations act and the costs that would be incurred under that. They're ratepayers there. They're thinking they would have to charge those ratepayers who were unjustly thrown into Bradford-West Gwillimbury, those two lots west of the highway, with the cost of going through that, and there simply aren't enough houses there to foot

the bill for a lengthy process. If people would read the resolution, they've gone as far as offering to provide compensation for any cost that Bradford-West Gwillimbury may have incurred as a result of the forced amalgamation down there. But my question there would be, what are you supposed to do if you can't get Bradford-West Gwillimbury to even talk about this issue?

Of course it was a gift to them by the former government because it was represented by the Liberals there. The Liberal member went in and said, "We're going to draw the line two blocks east," along the ditches of the bloody highway. It doesn't make any sense.

1450

What do you say to my constituents who have property with the house in one jurisdiction and the barn in the other? It doesn't make any sense to these people. There's Keith Robertson, a very good example of exactly that. His property is split. If you ever even try to find this line, it's impossible. It goes down these fields. There aren't even fence lines in half of it, so it doesn't make any sense to anybody.

Finally, for provincial representation purposes and federal, the dividing line is still Highway 27. Now we have this little piece Mr Wessinger's got. He's got about 200 houses along the ditch. It doesn't make any sense whatsoever.

We need a north-south corridor, and I think, in fairness, you should be allowed to split that north-south corridor. Bradford-West Gwillimbury can continue to develop on the side they've always had for 100 years, and why can't New Tecumseth develop on the side it had previous to this forced amalgamation?

The Vice-Chair: Parliamentary assistant.

Mr Jim Wilson: No, I'm sorry. I just want to make a correction there. Mr Wessinger at this point doesn't have, obviously, the west side, but if there was a boundary change and it went along the municipal boundaries, he would then incur it, or whoever was the representative at that time. Sorry, I just wanted to correct that.

The Vice-Chair: Parliamentary assistant.

Mr Hayes: Just to assist members of this committee, I'd like Mr Griggs to clarify a few issues here dealing with that particular highway.

Mr Griggs: There has been some discussion regarding the criteria used by the study committee regarding the use of roads and highways as boundary lines. I'll just restate the criterion. It's number 6 of the study committee's guiding principles. It reads: "Existing roads, other than access controlled provincial highways, are not considered to be good municipal boundaries."

In fact there was a question as to whether this Highway 27 is or is not a controlled access highway. We've got a fax from the Ministry of Transportation that I can distribute to all the members. It's two sheets,

and it's already collated.

This section of Highway 27 is a class IV major highway, and I'll just read what that means in terms of access:

"—Direct access for existing uses (or vacant ownerships created prior to subdivision control) may remain in and may be eligible for conversion to service another type of use.

"—Entrances for newly created parcels will generally only be considered for total holdings having in excess of 1,000 feet of highway frontage or within a reduced speed zone; or where existing (not 'field') entrances are available; or for one interfamily/farm-related severance; or where local road access is available.

"—Public road entrances will be considered."

I think it's fairly clear that this is not a controlled-access highway in this area, just to make that clear for all the members of the committee.

The Vice-Chair: Mr Conway, please.

Mr Conway: I want to say at the outset that the member for Simcoe West deserves full marks for his very vigorous efforts to address this concern that is obviously a real irritation for people in the New Tecumseth part of his constituency. I know how very strongly he feels about this, and I want that to say at the outset.

I thought it was helpful that he distributed the resolution from the corporation of the new town of Tecumseth signed by his honour my old pal George McCague, and I thought the resolution was interesting. I thought the second page was also interesting, the response from the town of Bradford-West Gwillimbury. They just thanked George very much for his interest and that was the end of it.

I think, even if we wanted to do this, there's a question—I really do want to focus on the substantive questions, but on this there is a process question as well, that to favour this and to make this amendment without having provided an opportunity for the town of West Gwillimbury-Bradford to come and say, "Well, you know, Wessenger's got it all wrong," or "He's got it all right," or "Wilson's got it half right" is just I don't think fair.

That's not to diminish the concern that the member has made. Mr Wilson, again, has been very passionate on this subject. But on a very important procedural ground I just couldn't favour this because I would feel that I'd done something quite unfair to one of the parties, though in the end I might very well want to agree with Mr Wilson. But I didn't hear enough from all of the parties affected to make any kind of a judgement around this matter.

I feel very badly on the subject about one of Mr McLean's, the issue around that business about the township of Vespria, because I know from the one person we heard there was very real feeling about the

need for change. But I didn't favour that, not because it isn't a good idea, but I just don't think we can make that kind of change, as we can't make this kind of change, on the basis of these proceedings and what we've heard, or not heard in this case, from the town of West Gwillimbury-Bradford.

Mr Waters: First off, I'm at a loss when my colleague Mr Wilson says they don't have a north-south access, because the highways—they don't care whose township they're in, they just run. The people in Alliston—don't tell me they're not using Highway 27 to go north or south because it's now in another township. They definitely use it the same as they always did. The travel patterns are the same.

I have a problem—I agree with Mr Conway over this—where we're entering some negotiations that have been resolved in 1989 and we haven't welcomed all the parties in to hear all sides of the story. I really have a problem doing that. I guess that's why, again, I won't be supporting this because of that. I really have some problems where people from all sides haven't had their opportunity to come and be heard. This was done in 1989. My understanding was we were dealing with north Simcoe, which was the part of Simcoe county that wasn't reorganized in 1989. For those reasons, I can't support it.

Mr Jim Wilson: I appreciate the thoughtful words from colleagues, but just a couple of responses. One is to take the latter point made by Mr Waters. If you read Bill 51, we are dealing with New Tecumseth. Also, what we are doing in this bill is dissolving, making null and void the 1990 act, incorporating parts of it in Bill 51. We are dealing with the entirety of the south Simcoe restructuring issue. We haven't had a request, except for this, and there's a request from Adjala and New Tecumseth on the other side to change boundaries. That's why there hasn't been a lot of debate on it and that's maybe why you have the impression we're not dealing with south Simcoe. In fact, after Bill 51 passes, there will be no south Simcoe act; it's all one Simcoe county act.

The point about a north-south corridor was not access, it's development. I defy you to find me a north-south corridor in New Tecumseth now. We don't have one. In fact, it's a constant pain between the Ministry of Transportation and Honda to direct Honda where it actually can bring its hundreds of trucks per week in and out. It's been an ongoing debate. I don't want to leave the impression that we want this corridor exclusively for Honda—they're solving their problems in a piecemeal way with the ministry—but the fact is the town has no corridor in which to develop along for commercial-industrial development.

I would agree with members who have expressed the frustration that we haven't heard from Bradford-West Gwillimbury, except that I would ask you to adopt my

mindset that it didn't seem to matter at all, if you put your mind back to the south Simcoe restructuring. Nobody cared what New Tecumseth's thoughts were on this; the line was simply drawn. I think fair is fair. If they were given a corridor with no concern to New Tecumseth, you can equally try and redress that situation without asking West Gwillimbury. Put it back the way it was and both sides should be happy. I'm sure they could live with it.

Even common sense tells me we already know Bradford-West Gwillimbury's line. Why would they ever come to committee, unless the Legislature takes a decision on this, and say, "Yes, we're going to give you back half our corridor"? They're not going to do it. Why waste their time? You know their answer. Mr Wessinger has conveyed that to the committee.

The point is, it wasn't fair when it was done and it would seem somewhat unfair to someone to have to undo it while I think on balance you're looking at a fair equation. It's the mindset of 1990 that one has to be in when redressing this issue and, secondly, the criteria that are being applied by our good friend from the ministry come out of a May 1991 book. To retroactively apply those criteria to the south Simcoe restructuring is unfair. That stuff is drafted up a year after. There were criteria generally thought to be used for south Simcoe that you were not to use roads as boundaries, where possible. That's the only justification, to this date, being given for that. But I see in a number of other areas, even today, a violation of that principle, when we look at 400, 69 and many other areas in the province.

1500

Interjection: It's a controlled-access highway.

Mr Jim Wilson: But in terms of the original criteria, it's just roads; it didn't say controlled-access.

Mr Hayes: I just want to raise one point to the members of the committee: This issue was brought to county council. There was a resolution and the resolution read that the Minister of Municipal Affairs be asked to re-examine the eastern boundary of the town of the amalgamated municipalities of Alliston, Beeton, Tecumseth and Tottenham, and this was defeated at county council.

Mr Chair, I appreciate what Mr Wilson has been saying, but I don't believe we can handle this at this particular committee. I would suggest to Mr Wilson that maybe to continue to pursue this if—I know he mentioned how he had the private resolutions—

Mr Jim Wilson: Change of government.

Mr Hayes: Well, if you want to change the—

Mr McLean: Ratepayers will pursue it in 1995.

Mr Hayes: Do you want some help or do you want me to just—

The Vice-Chair: Any other speakers? If not, shall the amendment to section 2, being boundary matters,

subsection (7.1)(a) and (b), carry? Those in favour of the amendment?

Ayes

McLean, Wilson (Simcoe West).

The Vice-Chair: Opposed?

Nays

Conway, Hayes, Murphy, O'Connor, Owens, Rizzo, Waters, Wessinger.

The Vice-Chair: The amendment is lost.

Are there any other amendments to section 2 at this time? Mr Wilson, please.

Mr Jim Wilson: I move that clause 2(1)(a) of the bill be struck out and the following substituted:

"(a) the town of New Tecumseth consisting of those portions of the former municipalities of the town of New Tecumseth, the township of Essa, the township of Tosoronto and the township of Adjala described in schedule 1;"

This amendment, for members' information, was written out by hand and photocopied. This amendment was originally contained in one of the PC typed motions.

The legislative counsel has requested and suggested that the wording I've just read into the record is more appropriate and I'd like to just circulate at this time the agreement between Adjala and New Tecumseth, signed this morning by both the mayor of New Tecumseth and Tom Walsh, the reeve of Adjala, indicating that they agree with this motion. I hope we'll also get agreement from all members here.

Mr McLean: I agree.

Mr Hayes: I think this is the kind of thing we've been discussing. I think here's a case where the municipalities got together, negotiated and had it endorsed by the county. I think we'll have to compliment them on the hard work they've done.

Mr Conway: So if we vote for this, this won't cause great hardship?

Mr Hayes: No, it won't.

Interjection: None at all.

Mr Conway: Well, that's good.

The Vice-Chair: Any speakers on this matter?

Mr Jim Wilson: I appreciate the support, but that eight acres of land was a mistake in the first place so—

The Vice-Chair: If there are no speakers—Mr Conway.

Interjections.

Mr Conway: It's that little piece? Oh, all right. Well, I have so many pieces of—

Mr Owens: Don't tease the bears.

Mr Conway: No, I won't tease them.

The Vice-Chair: Shall the amendment to clause

2(1)(a) carry? Carried.

Shall section 2—did you want a recorded vote on that one? Shall section 2, as amended, carry? Carried.

Mr Conway: I am going to arrange a luncheon date with Jim Wilson and Darcy McKeough and I'll pay.

The Vice-Chair: May I attend? We should now proceed, I believe, to section 50. Section 50 was stood down, I believe. Now, I will ask if the amendment to section 2 that was just passed requires an amendment to section 50, or will it take time to determine that?

Mr Hayes: No, it doesn't.

The Vice-Chair: Shall section 50 carry? Carried.

Interjection: I don't think we've reached 68.

The Vice-Chair: No we hadn't reached that as a matter of fact. That was the next clause to go to. However, my attention has been—

Interjection: No, go ahead.

The Vice-Chair: Section 68. Shall section 68 carry? Carried.

Shall we go on with the bill? The parliamentary assistant wishes to report on two matters regarding—

Mr Griggs: There were two issues that were raised by the township of Mara in their presentation to the committee that I indicated I would look into and get back to them on and I just wanted to have on the record a response.

One was the matter of the urban service areas where a municipality by bylaw under subsection 29(2) identified an urban service area. It requires approval of the Ontario Municipal Board. There was a question as to whether they could establish urban service areas without have to go to the Ontario Municipal Board. It's my understanding, and I've been told, that they can also proceed under the Municipal Act which would not require OMB approval. So in fact this section just provides some added flexibility to the municipality to establish urban service areas.

The other issue was regarding clause 45(1)(a) and (3)(a) and it's regarding some of the wording. I wanted to refer this to legislative counsel if I could because it's a matter of the wording used in the bill.

Mr Waters: It's on another subject that somehow I think we might have overlooked today. I don't know whether it's proper to bring it up or not at this point, but I think we should have some discussion. That is Oak Ridge and the policing. Was that covered off anywhere today?

The Vice-Chair: Yes.

Mr Hayes: We did that.

Mr Waters: We did. Okay.

The Vice-Chair: That was discussed previously.

Mr Jim Wilson: For the record, I'd just like one brief explanation as to why there wasn't an amendment

to incorporate the name Clearview in the bill. Perhaps we can just have that on the record.

Mr Griggs: In the cases where you have a number of amalgamating municipalities, where the name of the new municipality would not reflect the municipalities that are being amalgamated—in other words, where the municipalities wanted to put a new name in the bill we, as a policy, required the agreement of all of the municipalities involved in the form of a resolution of all the councils.

In the case of Nottawasaga, Sunnidale, Stayner and Creemore, we received resolutions on the name Clearview from three of the municipalities, but not from all four. So one of the municipalities had not supported that name, in our view, and we didn't feel we should put the name in on that basis. In all other cases, the name shown in the bill was supported by the councils. I should also point out that there is provision at a municipality's request for the minister to alter a municipality's name in 1995.

Mr Conway: I have a comment. I've substituted all week on this committee and I do have a long drive; I've got to go to a municipal meeting. I really did appreciate this. This was a very interesting exercise. It's given me some very—I've been around here 18 years, but I've never done one of these municipal bills like this. This has been a very illustrative process for me and I'm certainly going to want to say some things on third reading.

1510

Mr O'Connor: Sure.

Mr Conway: I hear Jim Wilson. I'm sure he's right about what we did and some of the unfinished business or some of the misery that the south Simcoe restructuring of 1990 caused.

I really appreciated the witnesses, the people of Simcoe county, on very short notice. I hope there is something we can do. I just say to the committee that I thought the reeve of Nottawasaga, Reeve Currie, made a really good point yesterday about the difficulties of the short time lines. That's something I think we should think about. I thought, on short notice, a lot of people came forward and made some extremely helpful observations. The parliamentary secretary did very well in difficult circumstances. I'm going to have to take off, but I really appreciated this. As a member from a very large rural county, I'll tell you this has been a very important part of my education, and I appreciate the opportunity to take part.

The Vice-Chair: Thank you, Mr Conway. Perhaps we'll have the opportunity of visiting in Renfrew at some future time. I'm sure if the previous Chair were still present at this time, he would state that the committee has also appreciated your attendance, at times, on the committee as well.

Mr Conway: Thanks. I want to thank the member for Simcoe East for his hospitality the other night. It was a very kind thing he did.

Mr Owens: As the parliamentary assistant, I certainly appreciate all the words Mr Conway had to say. Just before we adjourn quickly and everybody runs out, I think it would be remiss if I did not thank all of the staff, all the members of the committee and also the municipal people. They went through a lot harder things than we did in dealing with this restructuring. I'd just like to thank everyone for their participation, on this committee, and through the whole process.

The Vice-Chair: To complete the bill, shall the title of the bill carry? Carried.

Shall I report Bill 51 to the House as amended?

Mr McLean: No.

Mr Owens: Yes. Agreed.

The Vice-Chair: Do you wish to vote on that?

Mr Owens: No. They're joking.

He's got another clarification.

Mr Griggs: There's a concern from Mara township that hasn't been dealt with on the record. I referred it to legislative counsel, but she didn't have—

The Vice-Chair: Will that be circulated by memo?

Mr Griggs: It has to go on to the public record, because I suggested that I would get back to them.

The township of Mara had raised a concern regarding some of the wording used in section 45 of the bill regarding the continuation of bylaws and the dates involved. I just wanted to clarify and answer their concern on the record, and I wanted to refer it to legislative counsel to do that.

Ms Mifsud: The question that was put to me was, we use the construction "the greater of (a) and (b)." I guess the people up there thought it should be "the greater of (a) or (b)." The correct grammatical approach is "the greater of (a) and (b)." Although "or" is becoming accepted, the better grammar in the books is "the greater of (a) and (b)." That's on the record.

The Vice-Chair: On behalf of the committee, I

would like to thank all of those individuals representing themselves or communities, councils etc who appeared before the committee at the hearings. Thank you for taking the time and making the effort to do that. It's been very helpful to the committee, and I certainly echo the parliamentary assistant's appreciation to the ministry staff. Mr McLean, did you have a point?

Mr McLean: I had a few minor remarks I wanted to make and this may be an appropriate time.

Many people are aware of the problems we have had with restructuring in the county of Simcoe, the years that I've been opposed to county restructuring and the way it was done. As it started out, they were supposed to be looking at the feasibility, a study to look into the feasibility of restructuring. That never did happen. They have proceeded with restructuring.

During the last election campaign, there were people talking about restructuring. The member for Simcoe Centre said, "When I'm elected member for Simcoe Centre, I will see the proposed restructuring of Simcoe county scrapped," we have other statements made by the member for Muskoka-Georgian Bay and we see them here today voting in favour of this piece of legislation, which we have spent thousands of dollars having hearings on that have not amounted to a hill of beans, so to speak, because the agenda had been laid out.

I can tell you that on third reading we will have a full debate and there will have to be closure before they will get it passed. It's bad legislation and it will prove to be bad legislation. The county people had indicated on many occasions that if they didn't do it, the province would do it for them. The parliamentary assistant said that is not so. Where did the word come from that they had to do it? I just hope the county of Simcoe can survive the knock that it has had.

I want to thank the parliamentary assistant for his efforts during the hearings we have had, because it's been as difficult for him as it has been for many others.

The Vice-Chair: The meeting is adjourned. Thank you for your attendance.

The committee adjourned at 1516.

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Martin, Tony (Sault Ste Marie ND)
McGuinty, Dalton (Ottawa South/-Sud L)
***O'Connor, Larry** (Durham-York ND)
O'Neill, Yvonne (Ottawa-Rideau L)
***Owens, Stephen** (Scarborough Centre ND)
***Rizzo, Tony** (Oakwood ND)
***Wilson, Jim** (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs O'Neill
Hayes, Pat (Essex-Kent ND) for Ms Carter
McLean, Allan K. (Simcoe East/-Est PC) for Mrs Cunningham
Murphy, Tim (St George-St David L) for Mr McGuinty
Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Hope
Wessenger, Paul (Simcoe Centre ND) for Mr Martin

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Griggs, Jeremy, fact-finding officer, municipal boundaries branch
Hayes, Pat, parliamentary assistant to the minister
Kotecha, Naren, adviser, municipal boundaries branch
Perron, Linda, solicitor
Temporale, Rick, chief negotiator, municipal boundaries branch

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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Third Session, 35th Parliament

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 18 October 1993

Journal des débats (Hansard)

Lundi 18 octobre 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

Expenditure Control Plan
Statute Law Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne le Plan
de contrôle des dépenses

Chair: Charles Beer
Clerk: Doug Arnott

Président : Charles Beer
Greffier : Doug Arnott



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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 18 October 1993

The committee met at 1542 in room 151.

EXPENDITURE CONTROL PLAN
STATUTE LAW AMENDMENT ACT, 1993
LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE
LE PLAN DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Projet de loi 50, Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Chair (Mr Charles Beer): Good afternoon, ladies and gentlemen. We begin the first session of the standing committee on social development. I want first of all to report on a meeting of the subcommittee to deal with Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act. You have a copy of the subcommittee's report before you.

Mr Larry O'Connor (Durham-York): I'd like to move that we accept the report.

The Chair: It's moved to accept the subcommittee's report. All in favour? Opposed? Carried.

In conjunction with that report, I would like to note that the advertisement, which everyone received a copy of last week, will appear in the daily newspapers on Wednesday of this week. For anyone who is watching who wants to make a submission to the committee, that will be in the newspapers and they can follow through with the address and so on that is there, as well as telephone numbers if they need further information.

We are gathered today to deal with Bill 50 and this afternoon we are going to hear from the parliamentary assistant, representatives from the ministry and the two critics. Without further ado, Mr Wessinger, welcome to the committee and please feel free to go ahead.

Mr Paul Wessinger (Simcoe Centre): I'll just make some preliminary remarks with respect to the bill on behalf of the minister. When the government introduced the Expenditure Control Plan Statute Law Amendment Act on June 14, we stated that one of the things we needed to do to preserve medicare was to take strong action to manage the high costs of the health care system.

During the second reading debate on July 26, the Minister of Health stated that Bill 50, as drafted, was

consistent with our health reform strategy and that it would assist the government to meet its expenditure control plan and fiscal targets.

The Ministry of Health's expenditure control measures are about good management and allow us to achieve the goals of the health care reform: to shift emphasis from treating illness to preventing disease, promoting health and community care, and to create a better balance between the traditional health care system and the broader factors that influence health, such as income, housing and the environment. Medicare, we stipulated, must be affordable, sustainable and accessible and it must deliver to Ontarians health care that is not only effective and appropriate but of the highest quality.

As physicians account for about a quarter of our health care dollars, we needed to reopen talks with the Ontario Medical Association. Through the 1993 interim economic agreement, the OMA and the government have arrived at a mutually acceptable way to achieve not only the ECP targets of managing physician supply, ensuring a better distribution of physicians across the province and containing health care costs, but also the social contract targets for limiting physicians' pay. As a result of the agreement reached between the government and the OMA, there need to be significant changes to Bill 50.

The agreement changes the way Bill 50 would have assisted the government in reaching its overall fiscal savings from the health system. In its original form, Bill 50 had strong measures to control the supply of doctors, their payment and how often some of their services could be provided. Instead of moving forward with such measures, the OMA and the government have agreed to reach the fiscal targets through alternative and complementary methods. We are working together to find ways to decrease utilization of medical services without hurting health outcomes.

Under the terms of the agreement, OHIP expenditures in the next fiscal year will be \$100 million less than they will be in the current fiscal year. The expenditures will be \$140 million less in each of the following two fiscal years. This is a positive step forward. We now have a budgeted amount for billings; in other words, a hard cap. If partway through the year the billings exceed what they should be, doctors will not receive the full amount for the services they bill. Under the previous arrangement with the OMA, we had no mechanisms for staying within our targets. It was an open-ended system. Now we know exactly the maximum we will spend and we will stick to it.

Other elements of the OMA agreement allow for further savings and address physician resource issues. These initiatives require that there also be changes made to Bill 50. Let me break the bill down into three key sections and describe how the government proposes to amend them.

The first section of the bill enabled the government to override existing agreements in the health sector, where new ones had not been reached, to achieve the government's fiscal targets. We are proposing an amendment to section 1 to exclude all agreements arrived at on or after June 14, 1993.

I'll move to the third key section of the bill and simply state that we are not proposing any change to that section, which sets out that the Hospital Labour Disputes Arbitration Act will require parties to share the cost of arbitration in hospitals and nursing homes. At present, the government pays the full amount of these costs, which on average have been nearly half a million dollars every year.

We are, however, proposing new provisions be added to section 2 of Bill 50, which amends the Health Insurance Act. We are proposing changes to section 2 of Bill 50 in the following three areas: (1) health care fraud reporting by physicians, (2) third-party insured services, (3) interim restrictions on fee-for-service billings.

We believe these provisions will further assist the government to meet its expenditure control fiscal targets. We are proposing an amendment requiring that prescribed persons, such as health care practitioners, as defined in regulations, report cases of health card abuse and fraud. Physicians will be authorized to take into their possession any voluntarily surrendered invalid cards and be guaranteed that they cannot be sued by the person who surrendered the card.

On this point, I want to make it very clear that the ministry is committed to fighting health card fraud. We are pleased that the Ontario Medical Association has made such a strong commitment to join forces with the ministry to catch those who attempt to defraud the system with a card that does not belong to them or that they are ineligible to have.

1550

There has been a public outcry over allegations that many dollars are being wasted by people using health cards when they shouldn't be. The Provincial Auditor last year charged the ministry with not doing enough to control invalid or suspect cards. Over the last several months, the ministry has acted to deal with and reduce health card fraud. Among the things we have done, we have set up a toll-free line so that consumers, pharmacists and physicians can report suspected abuse. The ministry has hired a forensic accounting firm to advise us in the establishment and implementation of the appropriate investigative procedures. The ministry will

also undertake to issue a new type of tamperproof health card, complete with new security controls and possibly a personal photograph.

Requiring doctors to report suspected health card abuse and fraud without fear of being sued will go some way in getting at some of the abuse of our health system. It is important to recognize that since doctors are one of the gatekeepers of our system, they should be active in fighting health card abuse. I am extremely pleased that they have agreed to assist the government in this exercise.

As part of our agreement with the OMA, the government committed to legislate that uninsured medical services required or requested by a third party will be the financial responsibility of the third party. At issue are those services that are being inappropriately billed to OHIP. Some examples of third-party requests include back-to-work notes and insurance companies' requests. In the past, for the sake of convenience, some of these services were billed to OHIP even though there was never an intention for OHIP to cover services such as these.

Regulations passed last year made it clear that these types of services would not be paid by OHIP, but they did give doctors the option of billing third parties or patients for such services. Since then, however, some doctors have had difficulty receiving payment from third parties. They either billed the patient, received no payment or found another insured service they could not provide. The proposed amendment makes it clear that third parties are liable to pay, either directly to the physician or by reimbursing the patient for services they request. The Ministry of Health will be working with the OMA to select an independent body to deal with any third-party disputes.

Patients will not pay for such things as examinations to determine eligibility for wheelchairs, prostheses, other Ministry of Health medical devices or the northern health travel grant program; completing documents or transmitting information required for admission to a hospital or other health facility, nursing home, home for the aged or charitable institution; completion of immunization certificates for admission to school or day care. In these circumstances, the health insurance plan would continue to pay the physician for providing these services to patients.

The third area of amendments relates to an attempt to better manage the province's physician resources. We are proposing an amendment that places limitations on the fee-for-service billing privileges for non-Ontario-trained, new-entrant physicians. These are to be temporary measures that are in effect only during the life of the new OMA-government agreement; that is, between August 1, 1993, and April 1, 1996.

For some time now, all the provinces have recognized the need for a national strategy on human resource

management, and we will be working with the provinces and territories to develop such a plan as quickly as possible. During that time, fee-for-service billing privileges will go only to licensed physicians who received a degree in medicine from an Ontario medical school, or have completed successfully at least one year of post-graduate medical training in an accredited Ontario post-graduate program that will lead to a certification by the College of Physicians and Surgeons of Ontario or the Royal College of Physicians and Surgeons.

This, however, does not affect any physicians already in the system. The restrictions do not include physicians who applied for registration numbers before August 1 and physicians who were already practising in Ontario before August 1, but in non-fee-for-service arrangements.

Other physicians eligible for billing numbers include those who have been granted positions on the medical staffs of Ontario hospitals and universities and take their new posts before January 1, 1994; those who have entered into written contracts to practise medicine before January 1, 1994; those who made a firm commitment to set up a practice of medicine before January 1, 1994, and where the physician has already incurred significant financial obligations as a result. As well, the Minister of Health will be able to exempt physicians or classes of physicians who address needs in underserved medical specialties, domains of medical practice, academic areas or geographic areas in Ontario.

I want to make it clear that Ontario continues to welcome foreign-trained or out-of-province-trained doctors. These physicians will be eligible for a number of contract positions. The government, with the OMA, will introduce a program of non-fee-for-service contracts by October 31, 1993. With these contracts, we will address physician shortages in isolated and rural communities, as well as provide entry in areas of practice where there are shortages. For example, there are not enough physicians providing treatment to people with HIV or AIDS.

Let me close by saying that Bill 50, with our proposed amendments, will contribute in a major way to government efforts to hold the line on spending for health services. By establishing predictable and stable funding for health services, we can effectively move forward on our health reform agenda, for which I believe wide agreement exists as to its merit, its necessity and its benefits for the people of Ontario. I hope this process will proceed speedily so we can pass and enact this legislation.

The Chair: Thank you very much. At the subcommittee meeting the other day, it was suggested that following your opening remarks it might then be useful to go through the bill with the technical briefing, and at the conclusion of that, the two critics would then make

their remarks. If that is agreeable, then perhaps we could go into the technical briefing.

Mr Wessenger: I'd like to introduce Mr Frank Williams, who is going to go through the bill for the members of the committee. Mr Williams has been involved in the drafting of this legislation and has been responsible for it, so I think he's most knowledgeable with respect to it.

The Chair: Mr Williams, welcome to the committee. I wonder just for Hansard if you'd be good enough to identify yourself, as they say. This isn't a game show, but we'll get the proper title on the record.

Mr Frank Williams: Frank Williams. I'm deputy director of the legal branch, Ministry of Health. I hope I can answer all your questions when we've gone through this. I'll try not to repeat too much of what Mr Wessenger has already stated. If you want to go to tab 7 in your binder, I'll take you through the chart that's set out. That might be the quickest way of handling this.

The Chair: I think we have letters, not numbers. Am I right? I'm not very good, but I'd have to count. Seven would be G.

Mr Wessenger: Mr Chair, I think there was a—

Mrs Yvonne O'Neill (Ottawa-Rideau): Background information chart.

Mr Wessenger: —dated October 18, 1993, Expenditure Control Plan.

The Chair: The comparison chart?

Mr Williams: That's what I'm referring to.

Mr Wessenger: This was handed out today. It is not in your text.

The Chair: Okay. You should have the Expenditure Control Plan, Statute Law Amendment Act, comparison chart.

Mrs O'Neill: You mean it's in with these amendments?

The Chair: It was laid out today. I think it would have been in front of you.

Mrs O'Neill: Comparison chart?

The Chair: Yes, right. Has everyone got the right words and music?

Mrs O'Neill: This is going to be like the long-term care bill. I can see it enlarging.

The Chair: Fine. Please go ahead, Mr Williams.

Mr Williams: Section 1 of the bill, as Mr Wessenger stated, basically stays the same except for two amendments. The first amendment states that the section doesn't refer to agreements reached or entered into after June 14, 1993, or to other agreements that may be prior to that date that are referred to in such agreements. This is to honour any agreements that we enter into subsequent to that date.

Mrs Barbara Sullivan (Halton Centre): Could we

just ask, as part of the technical briefing, for delineation of the specific agreements that are affected by section 1?

Mr Wessenger: Yes, certainly.

The Chair: Would you like that first?

Mrs Sullivan: Yes.

Mr Williams: I can answer some of that. I don't know if Eugene LeBlanc can partially answer some of that as well.

The Chair: Perhaps I could suggest, if there are others who may be assisting with the briefing, just to facilitate things if they want to come up and sit at the table. It just makes it a little easier, so you're not running back and forth.

1600

Mr Williams: Certainly the main intention of this section was to address any ECP agreements the Ministry of Health entered into with all the various sectors on and after June 14, and specifically the agreements that were entered into with the Ontario Medical Association.

Dr Eugene LeBlanc: That's correct. It's any of the agreements. It's the agreements with chiropractors—

The Chair: Excuse me. Would you mind just stating your name and title for Hansard.

Dr LeBlanc: I'm Eugene LeBlanc, the executive director of the negotiations secretariat. There are, I guess, about eight or nine agreements covering all of the fee-for-service practitioners except pharmacists, and this would apply to any of those since they were entered into after the 14th and therefore all those agreements would be exempt from any override as a result of this amendment.

Mrs Sullivan: So your response then is that pharmacists are the only practitioners who are no longer affected?

Dr LeBlanc: They are the only ones for whom there has not been an agreement signed that would be affected by the legislation as it now is contemplated. You said to name those that are affected now. If we were to enter into an agreement with any group post the 14th, pharmacists tomorrow, it too would be protected by this. There's a line drawn in the sand. Agreements entered into after the 14th presumably are to be protected agreements and not overridable by the former provisions.

Mrs Sullivan: Are there any other agencies or facilities that are not protected by the post-June 14 provisions?

Dr LeBlanc: Oh. I was looking at Frank. I think the answer is no.

Mr Williams: My microphone isn't on, but I would say no. This would cover everybody.

Mrs Sullivan: Except pharmacists.

Mr Williams: That's correct.

Mr Jim Wilson (Simcoe West): Just to be clear, what is the exact date of the 1993 interim agreement on economic arrangements between the government and the OMA?

The Chair: What is the exact date?

Mr Jim Wilson: Yes, the effect of that agreement.

Dr LeBlanc: August 1, 1993. That's when it was signed. It's effective as of April 1, 1993.

Mr Williams: Moving on to section 2 of the bill, we have added a new amendment which will basically define what a health card is. The present Health Insurance Act does not refer to health cards, and there are subsequent amendments that will follow this definition.

Basically, the next part of the bill, other than the sections dealing with the Medical Review Committee and the physician review committee, everything practically disappears. The only part of the bill that remains completely intact other than those sections is the section dealing with the Hospital Labour Disputes Arbitration Act, which Mr Wessenger has already alluded to.

Perhaps the best thing for me to do now is just to take you through the various amendments as they occur. The rest of the bill for all intents and purposes isn't there any more.

Mrs O'Neill: I wonder why they printed the amendments smaller than the actual legislation. That's the first time I've seen that.

Mr Williams: I'm just wondering, looking at this chart—and I can hardly read it; I have trouble reading it with my glasses.

Mrs O'Neill: And you know what it's about.

Mr Williams: If you want to go to the larger amendments that were handed out earlier today, maybe I can just take you through those one by one.

Mrs O'Neill: They're the same as on these sheets?

Mr Williams: You don't need a comparison because they stand by themselves.

The Chair: Just so again we're clear, those are the amendments that look something like this?

Mr Williams: Yes, that's correct.

Mrs Sullivan: But that doesn't include all the amendments. Today's package does not include all the amendments.

The Chair: Right. Some we had earlier, so we'll just need to identify those.

Mr Williams: As I go through them one by one I can identify what parts of the amendments have changed for you to make sure that we're all ad idem. I'll do my best.

Section 1 of the bill we've already dealt with. That's the amendment to section 1 referring to the June 14 date. The second is the health card. The next amendment is subsection (2.1) of the act. It's adding a section

11.1 and that's dealing with health cards. I just want to make sure everybody has that as I'm going through this.

The Chair: The first page in the package that was put before us today is subsection 2(2.1) of the bill, section 11.1 of the Health Insurance Act. That's the one you're referring to.

Mr Williams: Yes, that's correct. If anybody doesn't have it, stop me or slow me down as I'm going so that I don't jump ahead, and I'll make sure everybody has all the material in front of them.

The new section, 11.1, basically provides that the health card is the property of the minister and that a prescribed person who could be a health care practitioner—it could be a receptionist, could be any other person who's prescribed by regulation—has the authority to take possession of a health card that's voluntarily given up to that person and the person is protected from liability once the card is relinquished.

The Chair: Could I just ask a question? Last week, a physician came to me and said that someone had, I guess, been in his office and had a card that they ought not to have had. He wanted to give that card in, but then someone else told him that if he did that, he could be liable. He asked me, "Is that so?" and I said I was about to find out because we were going to be in hearings. But if, at the present time, without these amendments, a physician is aware that someone has a card which does not belong to that person, can they not take that card or report that to the police?

Mr Williams: Certainly there's nothing to prevent a doctor or any other health care practitioner from reporting it. I think there's some doubt right now just who actually owns the card, which is why we're drafting the amendments the way they're crafted right now, to make it abundantly clear that the card belongs to the minister and not the person who has the card.

The Chair: At the present time, just so I can tell the physician what to do, he could, though, report that he believed this person had a card which wasn't his or hers and he would report that to the police, or to whom would—

Mr Williams: I would think they would report it to the general manager. That would be the normal way it would be—

The Chair: Of OHIP.

Mr Williams: That's correct.

The Chair: Okay. Thank you.

Mr Williams: The next motion, which is subsection 2(3.1), is adding a new 19.1, which is refusal for payment: This is the section that deals with eligible physicians for the purpose of billing fee for service on and after August 1, up until the end of the agreement with the Ontario Medical Association, April 1, 1996.

The "eligible physician" is defined in subsection (3)

and that's basically clauses (a) and (b). Clauses (c) to (g) provide for what we might call "doctors in transit," doctors who had entered into certain arrangements before August 1 and had in good faith entered into these arrangements. Either they'd applied for an OHIP billing number or had entered into some financial arrangements or they had been granted an appointment with a medical school or a hospital. This is the attempt to draw those physicians in to make sure they're covered and they can still bill the Ontario health insurance plan.

Clause (g) provides for a slight rejigging if we find that there are certain groups that don't quite fit either one of the above clauses.

Mr Randy R. Hope (Chatham-Kent): I was looking at (d). When you said the word "applied" for a billing number, what's your definition of applied? Is it through your normal application, or is there a written letter saying that you have intentions?

Mr Williams: Certainly it would be given its normal, everyday meaning, but we have the ability by regulation to define what we mean by "applied" if we find that there are certain circumstances where there's a grey area as to whether there was an application or not. This would be regulations that we'd work on together with the Ontario Medical Association to ensure that we either kept in or kept out the particular group of physicians who were being referred to.

Mr Jim Wilson: Again for clarification: the current law or the current definition of "eligible physician"?

Mr Williams: There is none. Any physician who's licensed in Ontario is entitled to bill the plan. There are certain provisions for opt-out physicians but, basically, a doctor who's licensed in Ontario, who provides what we call insured services, is entitled to bill the plan.

1610

Mrs Sullivan: I'm interested in knowing the position of the locum physician who may have billed under another physician's number rather than his or her own. I am not certain if and how they are covered with these provisions.

Mr Williams: That's a very good question. Subsection (4), which is the next section I was going to take you to, is the exception. We're hoping that we will cover not only locums, but there's a group of physicians we call "fellows" who also come in for very short periods of time that we'll address, and there could be others as well.

The Chair: What was that term you used? "Locum"?

Mr Williams: A locum is a doctor who fills in for another doctor when they're away on holiday or for some short period of time.

Mr Jim Wilson: Mr Chair, I'd like to clarify this locum stuff too, so people watching this can understand what in the world we're talking about.

Mr Williams: Just for the clarification of the committee too, a locum doesn't use his or her own billing number; a locum will use the billing number of the doctor they're filling in for. We don't want a doctor who's filling in for another doctor and using their number to then all of a sudden have billing privileges under this particular scheme.

Mr Jim Wilson: You mean ongoing?

Mr Williams: Ongoing; that's correct.

Mr Jim Wilson: But they'll continue to use the doctor they're replacing.

Mr Williams: But it would only be for a short period of time. Right now, I think locums are restricted to acting as locums for up to six weeks at a time.

Mr Jim Wilson: Under this bill, does the incoming doctor need a note from the outgoing doctor? How do you do that? Does the doctor provide a note to the general manager, a copy of the contract?

Mr Williams: To be honest with you, I don't know the answer. I'm not sure if there's anybody on staff who knows the answer to that one. I don't.

Mrs Sullivan: There's prior agreement from the ministry for the contract.

Mr Jim Wilson: Not necessarily.

Mrs Sullivan: Mr Chairman, I'd like some further clarification of that. I don't see in subsection (4) how a locum or a fellow would be covered.

Mr Williams: Clauses (c) to (f) set out the various doctors who we might call grandfathered or who are in transit, doctors who have made some kind of arrangements. What we're saying is that despite all those groups up above, a physician is not eligible if they're a member of a class that's prescribed as not being eligible under that section. Normally, somebody who, for example, is on a teaching staff as a fellow under clause (e), we could exempt from the application of clause (e) by the exception under subsection (4). "The physician engaged in the practice of medicine at any time in Ontario at any time before August 1" could be the locum, who before August 1 provided some service, maybe not under their own billing number but under another one. We would exempt them under subsection (4) as well.

Ms Dianne Poole (Eglinton): I had two questions in this regard. First of all, concerning some women physicians who have taken time off to raise children or who discontinue their practice but then come back into the mainstream after August 1, 1993, would there be an impact on those physicians or would they be protected by clause (c)?

Mr Williams: They'd would be under clause (c), if they had engaged in the practice of medicine in Ontario at any time before August 1.

Ms Poole: There was another case that was drawn to

my attention. A physician had received her training in one of the western provinces and just moved to Ontario last year, and she decided to take off a couple of years to raise a young child and then to go back into practice. Would she be impacted in that she would have to go back to school and receive further training from an Ontario university?

Mr Williams: In the particular situation, if the person met one of the criteria in clauses (c) to (f) or met one of the additional criteria perhaps that would be prescribed under (g), I would say no, but I don't know the circumstances. If the person you're talking about even for one day before August 1 actually engaged in the practice of medicine, she would be able to continue billing. Likewise, if people fit into one of the other criteria as well, they'd be able to continue billing.

Ms Poole: But that would mean they would have had to have a billing number prior to August 1, not only to practise medicine.

Mr Williams: Yes, or applied for one, one or the other.

Ms Poole: Or applied for one. We may have some gap from people from other provinces who did come to Ontario with the expectation that they would be able to practise medicine without further training and are now caught in this particular mechanism.

Mr Williams: I think it depends what you mean by "expectation." If the expectation was one of the delineated situations we've outlined here, then I'd say yes, they could continue to bill. It would have to be more than just an expectation. They would have to have made some commitment prior to August 1, either through application or actually billing the system or practising medicine or having entered into some financial or contractual arrangement before August 1, not necessarily coming here by August 1 but having entered into that arrangement before August 1 to commence practice before January 1, 1994.

Mr Jim Wilson: Are there physicians currently practising or teaching in Ontario who you haven't grandfathered in some way or another? Is there a class of physicians out there who may find the passage of this bill and its effect—

Mr Williams: To the best of my knowledge, and we've worked very closely with the OMA on this, we think we have caught the major groups. There may be the odd person out there who hasn't written us. My understanding is that anywhere from 40 to 50 doctors have written us to see whether or not they will actually fit in within the exemptions we've outlined. To the best of my knowledge, we've caught them all. There may be one or two we don't catch, and that's the purpose of having the ability to add more by regulation.

Mr Jim Wilson: The general question that comes to mind is that this deals with payment to eligible phys-

icians to a retroactive date. What was the discussion between the ministry and the College of Physicians and Surgeons with respect to granting licences in the future? If you're trying to stop physicians from coming from other provinces or other jurisdictions and taking up practice and automatically billing because they have a licence, what was the discussion surrounding the actual issuance of Ontario licences to practise?

Mr Williams: I can't speak to the issuing of licences; that certainly is not dealt with in this bill. I don't know if that's really a subject matter of this bill at this point.

Mr Jim Wilson: Perhaps the parliamentary assistant could advise us.

Mr Wessinger: The only thing I can think that would be fair to indicate is that the matter of licensing is a matter for the College of Physicians and Surgeons and not a matter for government legislation. There's nothing in this legislation that intends to interfere with the jurisdiction of the college of physicians with respect to its licensing role, and there's no intention to interfere in its licensing role.

Mr Jim Wilson: That's what I'm wondering. You're simply narrowing it to a payment provision here in the hope of restricting the number of physicians coming to Ontario. Maybe there's a very commonsense answer to this. I'm not trying to be mischievous; it seems to me you've got the cart before the horse. You're dealing with payment after the fact that they may be here. Why aren't we talking about, with respect to this bill, the whole issue of licensing? I know it's with the college. I assume there were some discussions.

Mr Wessinger: If I might indicate, the policy purpose of the restrictions on the fee for service is double-edged. One, of course, is to restrict the number of practitioners doing fee for service, but the other is to provide a mode of practice in the contracts in the underserved areas or in the areas where there's a shortage of physicians, to encourage physicians from out of province to go into those areas. I think it's fair to say it's a double approach here. It's not saying that people can't practise medicine; it's just restricting the mode of practice for the out-of-province, not saying that they won't be eligible to practise medicine in the province.

Mr Jim Wilson: It seems to me, if I might follow up, that with this definition, if you fall outside the definition and you want to practise medicine in Ontario, there's nothing preventing you, provided the college gives you a licence. You just may not get paid by OHIP or the government.

Mr Wessinger: Yes, that's right.

Mr Jim Wilson: So you're setting up a second-tier medical system.

Mr Wessinger: No. Maybe I'll ask Mr LeBlanc if he can add anything to this aspect.

Dr LeBlanc: Yes, a couple of points. The first is that, as the parliamentary assistant identified, this does not affect the process of licensure. You're correct in that you can end up with two kinds of physicians in the province, both licensed, one group that has an eligibility of practising fee for service and the other group. Under fee for service, there's absolutely no requirement as to what they practise, where they practise, when they practise.

The advantage of systems that are outside the fee for service is that they are specific positions in specific numbers with specific parameters, so if you want physicians in AIDS care or you want physicians in Dryden, you set up those positions and those positions will be available. The logic of this process is that there will be physicians who will wish to practise medicine and, being denied the capacity to go into the ad lib fee for service, where they can go where they want, when they want, they will move into, in effect, slots where jobs are offered.

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The second point you raise is that, in theory at least, a person can enter Ontario, be licensed and practise medicine; in theory, they could practise and not be paid. They are legally precluded from charging for the services because there's only one payor. It's theoretically possible for a physician to choose to do that, but their alternatives are to practise in the various areas of medicine that are not on fee for service, all of which have a geographical location, either in a given building, a given address in Toronto or a given community, and have a given number and a given mandate. The idea is quite clearly to steer physicians away from adding to the ad hoc system, which is fee for services, into the other one. I suppose one could end up with a theoretical person who practises medicine for free. I think it's unlikely, but—

Mr Jim Wilson: For free, or I think what's more likely is billing the patients directly. How are we with respect to the Canada Health Act on that?

Dr LeBlanc: No, they cannot. I suppose theoretically a physician could come in purely practising plastic surgery which is not covered by the Canada Health Act, not insured, and in theory they could presumably create their own employment. But if we're talking about the insured area of services, their only alternative would be to not be paid, though there is no proscribing of them doing that which they are licensed to do, but as a practical matter, I would think it unlikely to happen.

Mr Jim Wilson: But if the government continues to delist insured services, you may have a new class of physician that comes to Ontario to remove port wine stains exclusively. I see it as a two-tier medical system within our own borders, not just the current system which we clearly have with respect to the United States and other provinces.

Dr LeBlanc: I think one will have to wait and see what is in fact deinsured. We have had recent case law, in which hair removal was removed as an insured service and it did not stimulate a frenzy of plastic surgeons moving into the province in order to provide the service.

Mr Jim Wilson: But give those plastic surgeons a few more deinsured services to add to their offering to the consumer and you will see a class of physician come in.

Dr LeBlanc: Cosmetic surgery is always a possibility for independent practice, and I believe there are practitioners now who practise, licensed in Ontario, entirely unknown to the Health Insurance Act, because they only do hair transplants or other types of cosmetic—

Mr Jim Wilson: But I think everyone's aware that the current rumours with respect to delistings involve more than just cosmetics.

Dr LeBlanc: I believe I shouldn't comment on rumours, as all that will become public in due course. I suspect you may wish to revisit it.

Mr Hope: Just to assist us in this process, under subsection 5(b), where you indicate paragraph 1.4 of schedule 3B of the 1993 interim agreement, I'm wondering if it'd be appropriate to have a copy of that so we know what we're talking about.

Mr Williams: I can't comment on what materials have been provided. I thought the briefing materials contained a copy of the agreement with the OMA. I'm surprised to hear they don't.

Mr Jim Wilson: He wants the actual agreement.

Ms Poole: This is only a summary of it.

Dr LeBlanc: I will provide your clerk with a copy.

The Chair: Fine; thank you very much.

Mrs Sullivan: I just wanted to confirm the process as to whether we are still going to have time for a critics' overview after we go through the proposals.

The Chair: I was going to let us continue until about 5 o'clock and then I was going to raise that question to see how much time you would want and try judiciously to ensure that time is there. We'll continue then with the briefing. Please go ahead, Mr Williams.

Mr Williams: I can go as fast or as slow as you want, depending on how many questions you ask.

Mrs Sullivan: There were a lot of questions on that.

Mr Jim Wilson: I sort of thought we were giving a critical overview as we were going.

The Chair: I sensed that.

Mr Jim Wilson: I'm going to have nothing to say when it comes time to—

The Chair: That's fine. All I was going to say at 5 o'clock is—

Mr Stephen Owens (Scarborough Centre): Since when has that stopped you?

Mr Jim Wilson: I'll take that as a compliment.

The Chair: —that we can continue to go through until 6, or you can make any comments. It seems to me that we are all learning a great deal, both through your questioning and through the answers that we're receiving.

Mr Williams: Subsection (5) of the amendments refers to a physician resource agreement. I'll just take you back to subsection 19.1(1), which is the general section basically that restricts the fee-for-service billing. Subsection (5) provides that in addition to 19.1(1) disappearing on April 1, 1996, where the province enters into what we refer to here as a physician resource agreement—and it's defined. That definition refers to an agreement entered into between Ontario and one or more of the (i), (ii), (iii) that are referred to in clause (a), and in addition, it has to meet the criteria of the physician resource agreement that the member referred to in the OMA agreement. I hope you'll have a copy of that by the end of the afternoon.

Basically that provides, and you go to subsection (6), that to the extent that such a physician agreement provides, it can override 19.1. So 19.1 could in fact disappear by April 1, 1996, either by operation of that date or, where a physician resource agreement so provides in whole or in part, as set out in that particular agreement.

Mr Jim Wilson: Could I just ask the parliamentary assistant what the status of those negotiations with the federal government and the other provinces is regarding a national physician resource agreement?

Mr Wessenger: I'll ask Mr LeBlanc to deal with that.

Dr LeBlanc: I was having a short conversation with the clerk on the contracts, so maybe I could hear the question again.

Mr Jim Wilson: Section 1.4 of the OMA-government agreement, of course, states, "The government shall offer forthwith to negotiate and enter into a national agreement on physician resource supply" etc. Have those discussions been ongoing? What is the status of such an agreement?

Dr LeBlanc: Yes. The current activity began, I believe, a year ago January in the west, and they have continued, most recently this past September. It's expected to have a first-draft agreement by March 1994. That's the work plan. There is a national committee with working groups, and they expect to have one drawn up, since normally the deputies would meet in June of the year and the ministers in the following September.

That's the current work plan. Obviously, if they don't agree, then that won't be achieved, but the sense I have

is that, give or take a month, they're on their work plan.

Mr Williams: Subsection (7) provides that the minister can exempt physicians or classes of physicians from 19.1(1) in order to meet needs in academic areas, medical specialties, domains of practice or in geographic areas that are underserved by physicians or for prescribed purpose.

Mr Jim Wilson: Does the definition of "underserved" change with the introduction of this legislation, or are there changes to the underserved area program? Where's the legislative authority for the definition of "underserved"? I've never been able to find the thing.

Mr Williams: I think Dr LeBlanc can answer that better than I can.

Dr LeBlanc: There are two meanings of the word "underserved." There's the capitalized version which describes the underserved area program, which has varied in its structure since it was introduced in the mid-1960s. In this case, it's based on what the minister considers to be underserved, which is a more flexible definition than that which is defined by the existing program. The existing underserved area program is largely defined as a northern program, although there are a few small initiatives in the south. This one here does not have those restrictions. It's an open-ended process but does require ministerial proclamation of what is defined as "underserved."

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Mr Jim Wilson: The reason I asked the question, of course, is I'm trying to get my part of Simcoe county, and in fact most of Simcoe county, designated as underserved, because it seems to me that we would qualify except that we're not located in northern Ontario or some other area that is considered geographically designated. My understanding, then, to the parliamentary assistant, would be that this would give more flexibility to the minister and we should continue lobbying the minister.

Mr Williams: That's correct.

Mr Wessenger: Yes.

Dr LeBlanc: It also gives two other features that have, to the best of my knowledge, not particularly existed in the underserved area program, because it's not just geography but it could be a specific kind of physician or a specific kind of patient need, which are features that have not, as a practical matter, existed in underserved area programs in the past.

Mrs Sullivan: I think one of the things that is not clear in this amendment—and I was delighted to hear Dr LeBlanc speak of the patient need, because it seems to me that an "underserved area" definition should revolve around the health needs of people within the community and move from there rather than from a funding base.

One of the things that is not clear from the amendment as is proposed is who else, other than the minister, shall make the judgement with respect to the health needs of a particular community, whether they be in terms of a need for a physician with particular competencies or whether they be a need for particular, by example, emergency services, life support services, in which a community or a geographic area is short—because they are needed by patients, not because of a physician-population ratio.

It seems to me that once again the minister has power to exempt physicians, and there is no indication of what other resources would be placed in the flow so that the minister was making the appropriate decisions rather than unilateral decisions based on the kind of lobbying that Mr Wilson was speaking about.

Dr LeBlanc: Obviously I understand that ultimately ministers make decisions in the best way that they can. I think you may misunderstand subsection (7), as I understand it, because one would hope that in the majority of cases, academic needs and specialty needs and other needs would be largely met from those physicians we train in the province.

What this provides for is exemption from all of the other provisions that restrict, so that notwithstanding everything else, so that in extraordinary circumstances, so that in this case where one has to exempt because of these needs, these ought to be relatively easier decisions because you're working at the edge rather than establishing a base capacity.

For example, this provision would ensure that if one could find them and they were willing to come, notwithstanding the previous part of the bill, radiation oncologists could be brought into the province, or if one had a localized general surgery program, say, in north-western Ontario, and the two surgeons left town and there was no means of maintaining that service, this would allow that exemption.

What one would hope is that the general response for your community would not be through this exemption but through a more direct action. This is if all other things fail. This is a safety precaution.

Mr Jim Wilson: Mr Chairman—

The Chair: I've got Mr Hope. Did you have a follow-up, Ms Sullivan?

Mrs Sullivan: Yes. I understand that this particular section is with respect to the exemption for foreign or other trained doctors who may be coming into Ontario to meet certain needs.

What I don't see here and is one of the problems with the bill is the incentives for Ontario-trained doctors to do the underserved area work as it's defined not only by the minister but by a committee with expertise, whose judgement I would trust better than the minister operating in isolation, and that the underserved area

issues become defined on patient need, not on physician-population ratios.

Dr LeBlanc: There is no reference to physician-population ratios in this provision. The minister does have a variety of sources of advice that continue to work on the general issue of distribution. The principal instrument of distribution of physicians now involves the existing incentive program with the additional feature of the supplementary contracts which are now no longer limited to freestanding, fee-for-service physicians, but include physicians both in geography, area of practice and specialty. All of those are defined by need, the latter group.

I think you are attempting to accomplish more with section 7 than I believe it was contemplated to achieve, which is the whole problem of overall distribution. This is a fail-safe provision to allow, when the other pieces don't work, that you are not boxed into a corner of not being able to bring people in from other jurisdictions. It is not intended by itself to fix those issues.

Mr Hope: I'm glad you explained that part because I guess the OMA and the Ministry of Health are supposed to come up with an agreement dealing with underserved areas and you'd not only be talking about north but southwestern Ontario. If all those mechanisms fail and we don't meet the criteria of that so-called agreement and whatever other part of this bill is not in place, the minister would then have the power to help those communities which feel they need—and the minister agrees the need there to provide physicians is valid. If I'm listening to the conversation that's taking place, if everything doesn't work to meet the needs of the community, this is a fail-safe mechanism—using your own words—to help a community obtain health.

Dr LeBlanc: Subject to what you embedded in the general comments, that the minister—this is not a mechanism by which many people make a decision. It's ultimately in the hands of the minister, but it does allow the minister to compensate for shortfalls, however caused, in services in the areas of geography, types of practice and medical specialty, without regard to other initiatives. So she has the capacity to be sure that ongoing needs are met, notwithstanding the structure of this law.

Mr Jim Wilson: Dr LeBlanc, I appreciate your comments. I think that, as legislators, we didn't want to pass up the opportunity when you used the term "underserved" in this legislation, to try and figure out exactly what the ministry today means by that and where the future direction is with respect to the ministry on this issue.

I was wondering if perhaps the parliamentary assistant could undertake to give us a clearer definition of "underserved" and any status report with respect to discussions with the OMA, because it is a very serious concern for my area of the province and other areas, of

course. Given that the underserved program and that terminology seems to be the only way to get resources to your area, I'd like to know what we're dealing with.

Mr Wessinger: I believe in the agreement there's a date set for establishing a process for dealing with the underserved areas with the OMA. Am I correct?

Dr LeBlanc: Six days have been set aside, hopefully not to use them all, in order to arrive at the anticipated negotiation before the end of this month, so I think you will be in a position to report as requested. I assume the process will be continuing that long.

Mr Wessinger: That'll be occurring during this month then, the new issues.

Dr LeBlanc: Yes. It's still anticipated to resolve these issues before the end of the month.

The Chair: In the month of October?

Dr LeBlanc: Yes.

Mr Williams: I'll continue with the section dealing with third-party services. Just to give you an overview, I look at the third-party service section as being part of a three-part approach that we've taken to third-party services. Back in 1991, the government passed a regulation defining what services are not insured services and those services for which OHIP would not pay, that are to be billed back to third parties.

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What this motion does is ensure that in those circumstances the third party that requested or required the service actually is liable to pay for that service. What the motion does is provide a mechanism whereby a patient or third party has recourse if they feel that, for example, there's been an overcharge for a third-party service.

The mechanism goes further, to provide by regulation for an independent body. We hope to set up an independent body in the near future, in cooperation with the OMA, so that patients don't have to go through a court process or a tribunal process in the normal sense of the word. Hopefully it'll be a process that can be done by an exchange of documentation, an exchange of paper, so that the whole climate of the adversarial part of it can be eliminated.

Mrs O'Neill: I was going to ask about that, because I'm just wondering about the enforceability of this. You say that in the future you're going to put in an independent body, but the notes we got from the ministry on several different places in this bill seem to just indicate that this is going to happen. I'm not positive that every school board, every children's centre, every food processing company is just going to say: "Yes, that's wonderful. We're going to do that." Unless it's written in a collective agreement or in some other agreement with employees, I feel the individuals, and certainly in the case of such things as going off to camp, are going to have to pick up the fee.

Mr Williams: I'm not sure if I'm going to answer your question directly, but I think one of the purposes of this whole exercise is not only to ensure that the third party is liable, but it's also to force third parties to examine what they're requesting and requiring people to do. There are a lot of situations where third parties are beginning to realize that maybe the requests and the requirements they're placing on the patient are unreasonable and unnecessary. We're hoping that in a lot of cases some of these requests and requirements will actually disappear.

Mrs O'Neill: If you get the situation you have out in Peel right now, I'm not sure that's going to be the desired result.

I'm really quite concerned about this particular aspect, because it has a very wide scope. We can't even think of all of the places where there will be a necessity to bring this part of the bill into action. The education on this part of the bill is going to be very important, because individuals are going to be surprised by this particular change. I think a lot of it was being absorbed by the system. I'm not saying whether that's good, bad or indifferent, but I really do think that at the moment there's a whole new way of doing these things. They're going to be on children, maybe on individuals in vulnerable positions—out of work, trying to get work. In some cases the kind of work they're getting is minimum-wage work. This is the kind of thing I'm thinking of.

I don't see, at the moment, any protection here that is going to say, "Yes, you will be able to collect this from the third party." I don't see any enforceability. You're hoping they won't ever have to go to court, and I do too, because I think many of these people would never go to court. But it's just that if you have two or three children or you have two or three needs to do this kind of thing on an annual basis, medicals are pretty expensive.

Mr Williams: Subsection 36.2(1) makes it clear that the third party is liable for payment of the account.

Mrs O'Neill: Can you enforce that? I don't know how you can enforce that.

Mr Williams: There's a provision in here to go to court, if necessary, to enforce that.

Mrs O'Neill: And the transfer agencies will all be informed and there may even be a punitive attachment, if they are a transfer agency, if they don't do this. Is this correct?

Mr Williams: Perhaps Dr LeBlanc can partially answer this, because I know, for example, that with workers' compensation there have been arrangements whereby these sorts of situations would be looked after internally.

Dr LeBlanc: The first point is that one should understand this is not happening in a vacuum of history.

The examples you gave are currently prescribed by regulation in that an employer who simply wants a note for the purposes of maintaining attendance discipline should be paying for it and not the health insurance plan, and there were communications around those issues a year ago. You are correct, and I believe wise, in your suggestion that one has to continue making it clear to people what in fact is the way the world operates.

One does hope, as our counsel pointed out, that one does change things. The province itself, for example, has changed. Once upon a time, if you were away more than three days, people were required to have a note. Now if you are away more than three days, a note may be required and Management Board will pay for it, so they are no longer automatically being produced, stuck in files and never looked at. A number of camps have begun to re-examine their practices and are either using a nurse or a group process to examine people going to camp, rather than having everybody go to their individual doctor.

There will be dislocations if people have been abusing the process and now find, either due to indifference or simply the passage of history, that they haven't examined their practices. But it is the law now that they not charge OHIP.

This goes a way towards clarifying and assigning responsibility to the outfit that seeks the report or seeks the thing to make clear that liability. This is not creating a new regimen of non-OHIP liability payment. That has been in place since the introduction of medicare. It has not always been complied with, and the efforts of the last few years, culminating in this, are to make it quite clear that organizations which need to have work done should not export the cost into medicare's ambit.

Mr Williams: I refer to this also as a three-step process. The third step, which I haven't referred to yet, is the fact that there is now an ongoing process, hopefully to be completed by March 1994, which is examining the roughly 12 statutes and 50-odd regulations that now require some sort of third-party service to be performed. We are looking at those very closely to see whether all of them should be continued or some of them or none of them.

Mr Wessenger: Perhaps I could attempt to clarify, just for my own mind and maybe for the members of the committee. This is not really deinsuring any of these provisions with respect to third-party requests. What we're doing is merely shifting the legal responsibility in certain cases from the patient to the party requesting. This only shifts the legal responsibility away from the patient to the third party; it doesn't change in any way whether the service is insured or not.

Mrs O'Neill: My main concern still is, do those third parties—and I know they're there—understand this and have they agreed? Have they been consulted? I get

from what you're saying that perhaps there's been some consultation with some of them. I'm still quite nervous about just how this is going to sift out into the individual communities.

Mr Wessenger: I might just indicate that it's only prescribed circumstances. It's not every third-party request that's going to be covered by this legislation; it's only those provisions that are specifically provided by regulation. It doesn't mean that everybody who requests a doctor's certificate is going to be automatically liable for the cost of it; it'll only be those where we've prescribed it by regulation.

Mrs O'Neill: That's helpful.

The Chair: Mr Owens, that covers your point? Mrs Sullivan and then Mr Wilson.

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Mrs Sullivan: The last statement by the parliamentary assistant of course leads to my next question, which is, would you advise us what services you are contemplating be covered by regulations under the third-party billing provisions here and which ones you do not contemplate? I think we should have that information before we proceed.

There are peculiarities, as I see it, in the drafting here. One of the issues that is of singular concern is what the patient is left with. A physician, by example, is requested by the patient to do a physical which, under the OMA schedule, costs \$26 or \$27, under \$30, I think. The court system, being the method of collection, is ludicrous for that kind of referral, for that kind of fee, and I think that's one of the issues that should be on the table.

The other issue is with respect to your drafting of 36.2(1), which leads us to believe that the physician has the option of drafting a bill, preparing a bill and sending it to the third party, or the bill can be provided to the patient directly and then it appears the patient is obligated to pay.

Unless we're reading subsection (3) of that section incorrectly, nothing in this section affects any liability of an insured person to pay a physician's or practitioner's account for a third-party service. That tells me the individual patient is still responsible for paying.

I would also be interested in having, as we proceed, more background on the approaches that are being made to the 12 statutes which require some form of health medical review before certain activities are undertaken. I heard the parliamentary assistant say that immunization for schools and child care would not be charged back to the school boards. However, the Day Nurseries Act requires more than immunization as a condition of medical scanning as children are entering those schools. I believe there are strong regulations with respect to food handling where certain medical tests are required and the ordinary physicals are required.

I'm not prepared to take it on faith that over a period of time the government's going to examine existing legislation and regulatory requirements and come up with some kind of scenario for dealing with third-person billings. Either you've got the work done now or you don't have the work done now. You don't have the work done now; you've got regulations that are in place now. So why are you bothering with this entire section?

Mr Wessenger: I probably will hand this over to ministry staff to answer the more detailed aspects. I think we have several questions involved here. First of all, as I understand it, the list of prescribed circumstances has not yet been determined. There may be some indication of what's under consideration, but certainly there hasn't been any final decision, as I understand, on that matter.

With respect to the question of the physician's option to determine whom to bill, I would suggest, again from my own personal experience when I was a private practitioner of law, that normally physicians would much prefer to have the third party responsible for payment than the patient. Certainly, from my experience as a lawyer, when I requested a medical report medical practitioners were willing to take my undertaking to pay the bill while they would probably have required an upfront cash position from the patients. So I assume that most physicians would in fact directly bill the third party rather than take the option of billing the patient. I think I'll leave it. I'll turn it over now to our solicitor here.

Mr Williams: I can undertake to provide to the committee a list of the statutes and the regulations that we're now considering that are under review. That certainly shouldn't be a problem.

Dr LeBlanc: I think they should also be provided, if they haven't been already, with the existing regulations. Some of the examples the parliamentary assistant indicated were covered are already extant in the regulations. The issue is whether in some cases they should be required at all, even those we now pay for. So many of the legislation pieces are quite old and have not really been systematically examined. During the last six months and more, a variety of groups have suggested that some of the provisions are archaic.

A systematic review is under way. It is expected that in some areas we already know we would not alter. For example, the provision of mandatory medical examination under the Mental Health Act: The review of that is not going to alter the fact that those reviews will continue and that as a matter of public policy, they are likely to be paid for under health insurance. With some of the other requirements, for example, annual medicals within nursing homes, given that they have more extensive care, the issue has arisen whether that should be a continuing provision or not. As it is now, it is both a provision and covered. The question is, should it be a

requirement at all? That would be the kind of issue that would have to be pursued.

Mrs Sullivan: I'd like more information on who is participating in the review.

Dr LeBlanc: It is entirely an internal government process.

Mrs O'Neill: Can we have the answer to that question Mrs Sullivan raised on subsection 36.2(3)? She asked a specific question and I didn't hear any response to that.

The Chair: I wonder if someone might repeat the question.

Mr Wessenger: I think it can be answered, yes.

Mrs O'Neill: Basically what the obligations are.

Mr Williams: I thought the parliamentary assistant had actually answered that question. In practice, I think the doctor would prefer to bill the third party. This is just saying there's nothing to prevent the doctor necessarily from billing the patient after the service has been provided.

For example, where an employer requests that all the employees receive health examinations, there might well be one doctor whom the employer pays a block fee to do all the employees of that particular employer. In that way, the employee wouldn't have to pay the cost or bear the cost at all. It would be between the doctor and the third party.

Mr Jim Wilson: I think the discussion we've had with respect to this issue has been helpful.

Dr LeBlanc, for your information, the committee has been provided with both regulation 552 and subsequent—I guess the amended 552, which was regulation 785/92. It can be confusing reading for a simple legislator such as myself.

I ran into this recently with respect to a constituent who had to have a medical examination and report for the Canada pension plan disability. I ended up sending the whole thing to the Ministry of Health hoping it would straighten it out, but my recollection is, and I'd like a clarification from Dr LeBlanc, that this particular physician charged my constituent, I think, \$75. The provincial ministry told us that the reimbursement of that to the patient was the responsibility of the federal government, it being a CPP disability matter, and the federal government wrote me back saying, "Well, we only pay \$60."

Could I have a clarification? I'm still awaiting a response from the Minister of Health, Ruth Grier, on the whole thing and I'm sure she'll give it a thorough review. In the interim, what is the current status with respect to a federal disability program and payment by the province for the examination and any notes arising therefrom?

The legal counsel has indicated you're reviewing the

provincial statutes and requirements there, and I'm just wondering, my particular constituent is out \$75 and we're not sure who's supposed to reimburse my constituent.

1700

Mr Wessenger: I actually asked the same question. I don't know whether legal counsel can provide an answer today or will undertake to provide an answer to the position with respect to federal disability pensions. I was under the impression that these were items that were covered under our present system.

Mr Jim Wilson: I was under a similar impression, except when you re-read the Hansards, ministers have been very careful, as have ministry staff, to refer to the provincial disability plans. I agree, Mr Wessenger, that we were left with the impression in the Legislature that all disability plans and examinations required for those were covered, and that's why it came as a shock to me and the public, I think, that this particular payment seems to be in limbo. I'm not aware of it being in limbo prior to the passage of the new regulations.

Mr Wessenger: I think it's something we could ask for further clarification on.

Mr Jim Wilson: Okay, thank you.

The other quick question I have with respect to this is that when one reads the regulations, there are a number of services rendered by physicians that of course have not been, and as a result of the new regulations are not covered by the insurance plan, by OHIP. It does raise the question, though, and the Senior Citizens' Consumer Alliance for Long-Term Care Reform brought it up in its press conference last week, where it had reports of a number of physicians charging these \$100 administrative fees for any notes that might be required.

Could I ask the parliamentary assistant what's being done about that and what is the state of the law with respect to these upfront administrative charges being applied? Seniors particularly feel vulnerable on this practice.

Mr Wessenger: I will defer to legal counsel with respect to the legal status of such charges. I think it's clear that no patient is obliged to make these payments at all. There's no legal obligation on the part of any patient to pay the administrative fee. A patient can, I suppose, voluntarily make that agreement, because it's basically to cover "telephone consultations," areas that are not really under the insured scheme, but I'll ask the legal counsel to indicate whether there's anything illegal about those types of agreements or not.

Mr Williams: Actually, these are matters that are presently under discussion, both with the OMA and the College of Physicians and Surgeons, as to the right of doctors to charge what you might call block fees to patients. Certainly, the agreement with the OMA

contemplates that doctors will be able to charge block fees with respect to third-party services, but that's block fees to employers, not to patients. I think I would like to get some further information for the committee on that before I give a definitive answer, but certainly it's something that's under discussion at the present moment.

Mr Jim Wilson: Thank you. I would appreciate that information as soon as possible.

I think I'll defer my final question with respect to this section, because we're running out of time. It's another lengthy—

The Chair: I was just going to raise that it's five minutes after 5. We still have a number of amendments to go through, particularly for the critics. What would your druthers be? Shall we continue until a certain point? The other thing is that we have three witnesses tomorrow. There may be some time to—

Mr Jim Wilson: My preference would be to continue with the briefing for as long as we have these people here. They have busy schedules and they've taken time out to be here. I don't personally require a lot of time for getting critics' overview of this legislation. We did have extensive debate with the original Bill 50 in the House and I spoke for some hour and a half there. I'd simply tell the public to read Hansard from then.

Secondly, I think the best use of our time this afternoon is to hear our questions answered directly.

Mrs Sullivan: I'd like to go through the amendments and then go into critics'—

The Chair: Please continue, Mr Williams.

Mr Williams: I'll try to keep my comments as general, rather than getting into specific subsections, unless the members have specific questions that they want answered.

The Chair: Somehow I suspect inevitably we will get to subsections.

Mr Williams: That's the truth. The new section 43.1 of the act, which is added by subsection 2(3.3) of the motions, provides for mandatory recording of health card fraud by prescribed persons, and that could be physicians or other health care providers. It could be a receptionist in a doctor's office, for example. The requirement is to report an event referred to in subsection (2) that may have occurred, and there are three events listed in subsection (2).

There is a defence about reporting under subsection (1). I guess the best example would be a suicidal patient, where the doctor's afraid that reporting might affect the health of that person. The defence only lasts so long as the threat of serious bodily harm remains, and after it disappears the obligation is on the physician or the health care practitioner to report the event.

Section 43.2 provides for a broader voluntary reporting of health card fraud or fraud under the act, various types of situations, and 43.3 provides protection from liability, both for the mandatory and the voluntary situations.

Mrs O'Neill: You gave who this applies to and then in the overview you provided the statement, "No physician or practitioner is required to make a report about another physician or practitioner." Is that correct?

Mr Williams: That section has now been removed.

Mrs O'Neill: This is what came in the package today, but I guess it's dated October 8. So that's been removed today?

The Chair: Which amendment? Because if it's the one that was—

Mrs O'Neill: He just stated that anybody is obliged, including physicians, and the October 8 statement that came from the Ministry of Health said, "No physician or practitioner is required...." so that's why I wanted to check.

Mr Williams: The section now reads, "A prescribed person who, in the course of his or her professional or official duties, has reasonable grounds to believe that an event referred to in subsection (2) may have occurred shall promptly report the belief and the information on which it is based to the general manager." The three events are set out.

Mrs O'Neill: There are no exceptions except that one you mentioned about a suicide.

Mr Williams: Yes.

Mrs Sullivan: Just for clarification, I think that basically the question Mrs O'Neill was asking was if there's any obligation on a physician or other practitioner to report what, in his or her view, is professional fraud, apart from consumer fraud, although it was an old briefing note. I have a lot of other things to raise on this as we go along, but I just wanted to clarify what the difference was from the original note that she had.

Mr Williams: Perhaps if I take you through the events one by one, it will be better than looking at the old draft; just look at the new draft. Paragraph 1 refers to, "A person who is not a resident receives or attempts to receive an insured service as if he or she were an insured person." That would be the situation where you come in either with somebody else's health card or a fraudulent health card and you say you're an insured person.

"2. A person who is not a resident obtains or attempts to obtain reimbursement by the plan for money paid for an insured service as if he or she were an insured person." That's to address the situation of a patient going to an opted-out physician.

"3. A person who is not a resident, in an application, return or statement made to the plan or the general

manager, gives false information about his or her residency." That would be somebody applying to the plan who says they're a resident when in fact they're not a resident of Ontario. Those are the three situations that are required to be reported by a prescribed person.

The Chair: I go back to the question I raised earlier, because I want to be clear. Today, if the physician believes somebody is seeking a service and they have a fraudulent card, you were saying that should be reported to the general manager of OHIP. In 43.3 where it talks about protection from liability, is there some doubt today about whether the physician may be somehow subject to some form of liability?

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Mr Williams: I can think of two situations. One, you might have the situation where in fact there is no fraud and the patient sues the doctor: "You're saying I did something I didn't do," and the good name of the patient's now in question. The other situation is that you may have a statutory obligation not to report something, for example, under the Public Hospitals Act, and this would protect you from the situation of reporting where in fact there was fraud. There are two types of situations we have in mind, and there are others examples as well.

The Chair: I have Mr Wilson, Mr Hope and then Ms Sullivan.

Mr Jim Wilson: I know that when the Ontario Medical Association appears before us tomorrow this particular section will be of concern to it. In preparation for that discussion, I'm somewhat disturbed by the wording in the requirements of this subsection (3.3). Perhaps I could ask legal counsel to clarify. The intent of the amendment to 43.1 is to ensure that there's mandatory reporting, and it's a "reasonable grounds" test, but it seems to me that while there are both of those, the last part of that 43.1(1) says "report the belief and the information on which it is based to the general manager."

First of all, I don't agree, at this point in the hearings anyway and from the discussions I've had with physicians, that they should be asked to police a system they had not been consulted on and which was put in place by the previous government, so I have problems with the mandatory reporting. But with "report the belief," it seems to me you're watering down your own mandatory reporting. Second, one of the reasons I have problems with mandatory reporting is that I think it will have an adverse effect on the physician-patient relationship.

Can you tell me what the legal implication is of "report the belief"? If you really want mandatory reporting, then you would do something along the lines that if there is any inkling on behalf of the physician there's a requirement to report, which I wouldn't agree with either.

Mr Williams: The way the section reads, it says

belief that something may have taken place, so if there's a hint that something has happened and a physician believes there may be fraud there would be a requirement to report it, but the physician would have to truly believe that something had taken place. It's not that it has taken place, but that it may have taken place.

Mr Jim Wilson: I'll ask the parliamentary assistant the necessity for this mandatory duty to report. It would seem to me with the new capping, it's in the physicians' interest, as a whole, to stamp out fraud where they believe it's occurring and that a voluntary system of reporting would suffice, given that they will pay a financial penalty if utilization goes above the threshold.

What was the discussion and why did the government decide that physicians would be the front-line police officers for the OHIP system?

Mr Wessenger: I think the first comment to make is that it doesn't apply just to physicians. It will apply to prescribed persons who will of course be other health practitioners who are involved in the giving of services under the card.

Mr Jim Wilson: I assume it will cover everyone who has to receive the card as a currency in health care.

Mr Wessenger: I'll ask counsel also to elaborate on this.

Mr Williams: I think there are two other groups we also have in mind, not just the practitioner: You were talking about the receptionist in the doctor's office or in the clinic or in the hospital, and possibly even immigration officers when somebody's crossing the border. These are some of the people who come into contact with the sort of situations we're trying to address.

Mr Jim Wilson: It seems to me, though, that the mandatory provision rather than voluntary is a political decision, and one the parliamentary assistant should have a response to.

Mr Wessenger: I think it's fair to say that it's felt that without a system of required reporting you're not going to have an effective enforcement procedure with respect to the whole question of health card fraud, because the only people who are going to be aware of such fraud are those who are actually involved in or related to the delivery of the service. It's not's going to come to the attention of anyone other than those directly related.

Mr Jim Wilson: If you're talking about the immigration officer, that immigration officer doesn't have a special, confidential relationship with the person coming through the immigration stall at the airport. The physician does, and I would think that physicians and health care practitioners would take exception to being lumped in with "other prescribed persons," given their special relationship.

Mr Wessenger: I think it's really the whole question of, do we have an obligation to in effect correct crimi-

nal activity? Health care fraud is a criminal activity, in my opinion, and I think we have to look at it in that way. To report on criminal activity I think is a public obligation that all of us have together. This is the commitment also to the OMA to work with respect to the whole question of dealing with the health care fraud. The Ontario Medical Association has agreed to work in cooperation.

If we take a similar situation, there's a legal obligation for a physician, for instance, to report child abuse. That's an obligation that sits on the physician existing right now in law, or other health practitioner or any person.

Mr Jim Wilson: The physician didn't create the health card system, yet you're asking a physician, among others, to police it.

Mr Wessenger: We're asking them to report suspected criminal activities in the health card area.

Mr Hope: Mr Wilson said this is a type of currency, and I even pulled it out to see if I did sign the back of mine. I've heard the word "fraud" and other words used. I don't see where, in any insurance policy or any currency that is exchanged, there is a signature that is applied to services rendered. I don't know if it's in the proper place, but patients still don't have an understanding of services being rendered, nor verification.

How are you supposed to create fraud or anything else if you're not signing a "service rendered" form or an invoice or whatever it might be saying that these services are rendered? In order to get the health care system straightened out, there are a number of things we have to do. We as consumers have to understand what services are being rendered on our behalf. If the card system is working, then we should be verifying something because you've asked for signatures on the back of the card.

I was looking for a place in this act that talks about actual identification to a consumer of services being rendered and verifying services being rendered. If you're telling me somebody uses this card and signs a document or an invoice, that does show fraudulent. Just because I have a card and the card number is being scratched off, I have not verified, so where is it fraudulent? I'm not a lawyer, so you have to ask the lawyers. What is legally binding, held up in the courts, under this issue?

Mr Wessenger: The provisions dealing with health card fraud in this bill are not really—I think there are other measures that have to be addressed. As I indicated in my remarks, it's going to involve a more comprehensive approach. This is really only relating to one aspect of the whole question of health care fraud, that is, the reporting aspect of it. The other aspects of it hopefully will be dealt with in other legislation.

Mr Hope: Well, according to the title, it says

"Expenditure Control Plan," and I'm just bringing it up under expenditure controls.

Mrs Sullivan: I am quite disturbed, actually, about these amendments. We've had new amendments today to this section in comparison to those which were circulated earlier. The amendments today indicate that the prescribed person—let's say for now the physician, but it could be an employee in a hospital, it could be a lab technician, it could be a number of people in the health care system—will report.

1720

First of all, the mandatory reporting is when the person has a belief that the person who is presenting himself or herself for service or who has received a service or who is presenting himself for reimbursement or who has received reimbursement is not a resident. There are two judgements that the physician or other practitioner has to make: first of all, a belief that the person is not a resident and, second, if the person is not a resident, that he or she is causing fraud. The guess has nothing to do with the fraud; the guess is about the person's residency status, which itself could be the fraudulent act.

Subsequently, in the next section there is a requirement or a provision for voluntary reporting which overrides many other statutes, including the Public Hospitals Act, which require and insist upon confidentiality with respect to patients. That particular section can relate to anything with respect to the administration or enforcement of the act.

There are a number of assumptions here: first of all, that all fraud is by non-residents; second, that all fraud is by the consumer; third, that confidentiality can go by the board. I am not convinced, and I would like to have a legal opinion placed on the table before these hearings are finished, that the physician or other health care practitioner is protected from the liability which the proposed amendments purport to protect them from. With the overriding of the other acts in which confidentiality is required and privileged, the liability of the practitioner is very open.

The other issue—and I suppose we'll have to hear from not only the College of Physicians and Surgeons but from some of the other colleges—is with respect to what the scope of practice for the professions allows and requires with respect to confidentiality of information in the patient-practitioner relationship. But what about the non-regulated professionals and how they fit in here?

I think these are issues that really have to be looked at. Does the scope of practice, as the Regulated Health Professions Act is moving forward apace, include the obligation to police the system?

Mr Wessenger: To refer to the act, if we look at section 43.2, "a person," I would assume would mean

any person "may report to the general manager any matter relating to the administration or enforcement of this act," and that would involve fraud by any person in the system. It would involve a practitioner as well as a consumer. I think it's very clear that this applies to practitioner fraud as well as consumer fraud.

With respect to the question of protection from liability, I think that's a very broad protection. In fact, if you were going to be critical of the protection, you'd say it was too broad rather than too narrow. In order to not be protected from liability, the person reporting has to act maliciously, that is, not in good faith, and without reasonable grounds. It's not "maliciously or without reasonable grounds"; it's "maliciously and without reasonable grounds." Consequently, it's a very broad exemption from liability. If you wanted to narrow it, you'd change the "and" to "or." With the "and," in my opinion, legally it's a very broad exemption. I'll ask legal counsel just to confirm, as I'm playing lawyer, that I haven't overstepped the legal aspect here.

Mr Williams: The drafting was done in conjunction with legislative counsel and certainly it was drafted to be as broad as possible to encourage as many people as possible to come forward in a voluntary way and report health card fraud.

Mrs Sullivan: Do you have any other advice in writing on this? I think this is an important area. I think every single health care professional body and non-regulated practitioner body that comes before us is going to be asking for that.

Mr Wessinger: I have no objection to asking legal counsel to provide an opinion.

Mr Williams: Perhaps that's a question you might want to address to legislative counsel when they're here during the clause-by-clause.

Mr Wessinger: Yes, that would be more appropriate, because they did the drafting rather than the ministry counsel.

The Chair: Ms Sullivan, would you like to have legislative counsel informed of that question now? Of course they're not here at the table.

Mrs Sullivan: My understanding is that basically the amendments to this bill came forward as a result of negotiation between the OMA and the government; that this particular section of the bill was government-inspired as a result of difficulties with the health card system. Given that the thought for this section originated within the Ministry of Health, I would have thought the Ministry of Health would have an opinion prepared with respect to all the liability that health care professionals may incur as a result of this amendment.

Mr Williams: I'll respond to that as best I can. I think it's fair to say that you'll be hearing from the Ontario Medical Association on the mandatory aspect of the draft you see before you. I think it's also fair to say

that on sections 43.2 and 43.3, which is the voluntary reporting and the protection from liability, to the best of my knowledge the Ontario Medical Association is in agreement with the wording in these two sections. They may comment tomorrow, but my understanding is that they are content with the voluntary reporting and they wanted as broad a protection on the liability aspect as we could draft. My understanding from their counsel, from my point of view at the Ministry of Health and discussions we had with legislative counsel was that we were all of the opinion that this provided the necessary protections.

Mrs Sullivan: I have another question that relates to the liability. How would a physician, by example, be judged for not promptly reporting the belief that a person who was not a resident received health care services? How would anybody know if the physician suspected or was passed information? So much of the information we have with respect to health care fraud is anecdotal, based on hearsay. Is hearsay from more than one source reasonable and probable? What do they say here, the belief in the information on which it is based? Those aren't reasonable and probable grounds. It says "reasonable grounds to believe."

Mr Wessinger: I don't know who should appropriately answer that question, but certainly there has been a lot of anecdotal information given by practitioners with respect to the whole question of non-residents. I'll ask Dr LeBlanc if he has any other information he can provide to that. No.

Mr Jim Wilson: Along the same lines, with respect to this voluntary reporting, it seems to me the override is quite strong. It says "despite any act, regulation or other law prohibiting disclosure of the information." How does this affect, for example, the lawyer-client relationship? I know this is voluntary reporting, but as you're overriding all other acts, I assume a lawyer could break confidentiality and voluntarily report a belief that health card fraud has occurred or is occurring. Have you had any chats with the Law Society of Upper Canada with respect to this? I think all professions that have a confidential relationship should be worried about this.

1730

Mr Wessinger: I'll ask Mr Williams to respond to the question about a lawyer and the confidential relationship.

Mr Williams: Generally speaking, my understanding is that in law, really, other than statutory situations between doctor and patient, and most of those are doctor-patient relations or things that are prescribed by statute, and other than solicitor-client relationships, I'm not aware of any other relationships that are in law considered confidential. My view would be that lawyers reporting clients who have committed fraud would be covered by this, and I'm not sure why it shouldn't be covered.

Mr Wessenger: On a voluntary basis.

Mr Williams: On a voluntary basis, in the same way as any other practitioner.

Mr Jim Wilson: But it's my understanding that we have long cherished the solicitor-client privilege and we have avoided, on many other occasions, doing any damage to that relationship. In a health bill, you're overriding that relationship, although it be voluntary.

Mr Williams: Let's make it clear that the voluntary section is just that: It's voluntary. There's nothing that says a lawyer has to. A lawyer would not be the sort of person I would imagine we'd be prescribing as a prescribed person in the first subsection.

Mr Jim Wilson: But the prescribed person deals with mandatory reporting; I agree with that. This is voluntary reporting.

It seems to me that clients may not want to tell their lawyer certain things. We shouldn't be bringing in, via health bills, impediments to the solicitor-client relationship. I suppose, once you get some case law on this and lawyers start figuring out, "Gee, somebody got nailed pretty bad for not reporting," and it was a prescribed person, it's probably the slippery slope, that you go to the voluntary people too. Were there any discussions with the law society or other bodies that may be appropriate to this solicitor-client privilege?

Mr Williams: I can only answer the legal questions you're asking me. The policy issues, about whether a lawyer should be or would you want one, I can't answer that. We have had no discussions with the law society, but the intention was that this was a voluntary reporting. There's no obligation here; it's strictly voluntary. If the lawyer wants to report, he or she can.

Mr Jim Wilson: The final question with respect to this whole issue of reporting is dealing with the regulated health professions. For example, pharmacists, with the new computer system, are going to have a fair bit of information and understanding of where their patients are coming from. I'm just wondering, with respect to the mandatory section and the prescribed persons, whether the parliamentary assistant would undertake to give us a list of those persons the ministry is currently considering covering under regulation and making reporting mandatory.

Mrs Sullivan: Is there such a list?

Mr Jim Wilson: Given the mixup on seniors' health cards right now, it may be that a pharmacist knows the health card of that person as well. Is it a requirement of the pharmacist to say that Mrs Jones has the wrong health card? It probably won't be Mrs Jones's fault at all. But if the pharmacist doesn't report, there's some pretty heavy-duty penalties.

Mr Wessenger: It's a case of non-residency that has to be reported, not a question of an incorrect card.

Mr Jim Wilson: It's strictly non-residence?

Mr Wessenger: That's right; it's strictly non-resident.

With respect to your questions concerning—we don't want to deal with lawyers here. Maybe I'll just ask our legal adviser to say what we mean by a "proceeding". Do we mean a court proceeding? Is there some definition? If it says "no proceeding for making a report," does that mean a civil action, or would that include anything beyond that? For instance, would it involve a college in taking a disciplinary action against someone?

Mr Williams: My understanding from discussions with legislative counsel when we were drafting this, because we had several different wordings we were looking at on this section, was that "proceeding" covers all the things the parliamentary assistant referred to.

The Chair: Shall we move on?

Mr Williams: The last set of motions before we get into the title, I can say very quickly, provide for the regulation-making authorities to do all the things I've referred to in the last two hours as being prescribed by regulation. Unless you have some specific question on any one of those particular aspects, I won't go into any greater detail.

Mrs O'Neill: I'm still having trouble with the third-party stuff, so can I go back to the trouble I'm having in the actual bill and then go to the questions I had in the regulations. I'm still having trouble with the two sections that refer to the liability of the individual which, as I see them, are 36.2(3) and then 36.3(1)(c). If I look at the regulations, first of all there's going to be no appeal to the decision in this dispute resolution, which I presume is the body you're referring to that may be established.

Mr Williams: That's correct.

Mrs O'Neill: I wondered how specific you're going to get in that last phrase. People say these are old briefing notes; they were supposed to have been updated October 8, which isn't that old. "Factors to be considered in making decisions." What kind of specificity are we talking about here?

The Chair: While you're finding the right section, I just want to be clear. We've gone back to 36, which is fine, but I take it there are no questions on 45 and 45.1? There are?

Mrs O'Neill: I'm asking questions on that now, but referring it back so they'll know what part, and then the regulations are on the second page.

Mr Williams: I should point out to you that clauses (i) and (j) of subsection (5) of the regulation-making sections are new. Clause (i) is a shortened version of what you had before, and clause (j) is in essence picking up what was taken out of clause (i) and making it a little bit easier to understand.

With clauses (i) and (j), if you look at subsection (5) of 36.3, the section dealing with the third-party services,

that allows the court to look at certain things when it's making a determination, that a fee that's been charged is excessive. It has to look at certain things and it may look at other things that it considers relevant. What we are attempting to do in clauses (i) and (j) is to ensure that whatever independent body we establish has the same sorts of powers we gave the court. The body would have to look at certain things, may look at certain other things, and in fact we may require by regulation that it not look at certain things if we don't want it to do that.

Mrs O'Neill: Can you give me some examples of what you mean by "other things"?

Mr Williams: We say that the court has to take into consideration the Ontario Medical Association's guidelines respecting third-party services and its schedule of fees. There's nothing to preclude the court, for example, if in its discretion it wants to look at the Ontario health insurance plan schedule of benefits and compare it to the Ontario Medical Association schedule. It could do that, or it could look at any other things it considers relevant to determine whether the charge was excessive.

Mrs O'Neill: What I'm still wondering about is the liability of the individual. In terms of this body that's going to be established, is that going to make their life easier if they don't have to go to court? But with the no-appeal business, I wonder just how secure whatever they will have achieved will be.

Mr Williams: We're not talking about a situation that the patient's going to pay or not pay. The sort of situation we're talking about is where, for example, the patient is charged a fee by a doctor; the patient then tries to get reimbursement from the third party, assuming the third party's not billed by the doctor, and what happens is that the third party says: "You've been charged \$70. I think the correct fee is only \$50. You should have only been charged \$50, and that's all I'm prepared to pay you." That's the sort of situation we're thinking about, where the patient will take both the doctor and I guess the third party to court and say, "You reimburse me for the total amount and you, doctor, pay me the difference." The court has the authority to require the doctor to pay the difference to the patient.

1740

Mrs O'Neill: That's an awful lot of time for \$20 or \$25. I guess I'll have to leave that for now. Maybe some of the presenters will bring some of this to light as well.

Mr Williams: I would suggest that the chances of a third party refusing to pay for such a small amount, the chances of those sorts of situations arising, are probably fairly slim.

Mr Jim Wilson: With your indulgence, Mr Chair,

I'd like to go on to not the specific amendment to the amendments. Bill 50 being an amendment to the Health Insurance Act is what I'd like to talk about and the delisting provisions contained in the original printed bill of June 14, which would be the section changing clause 45(1)(i) of the act.

The Chair: Just before we do that, there was a clarification that I believe ministry staff wished to make to one of the questions earlier asked. Then we'll come back to your question, Mr Wilson.

Mr Wessinger: I believe it related to Dr LeBlanc's comments on pharmacists. He wished to make some further comments.

Dr LeBlanc: The question was asked about the contracts entered into post-June 14. Not paying attention to the nicety of which act practitioners get paid under, I talked about all practitioners who had and did not have contracts. The amendment here only relates to those paid under the Health Insurance Act. While it is true that pharmacists do not have a contract, they are not paid under the Health Insurance Act, so I don't think they are covered by that contractual override provision. I just wanted to make that point clear.

The Chair: I just note that we have 20 minutes. After this section, I believe it is just the question of the title, short and long, that we need to deal with. I just note that for members of the committee.

Mr Jim Wilson: I think it's important that we spend that time. I think, through studying these delisting authorities, the public will get a sense of where the critics are coming from. We recall that when this bill was first introduced in the House and we had some debate on it, although limited, at that time we were talking about psychoanalysis and removal of port wine stains, in vitro fertilization, circumcision; a number of possible and real delistings.

I would like from the parliamentary assistant or anyone else from the ministry a very quick overview of where the government and the OMA are with respect to the \$20 million worth of delistings that have to be found as a result of the agreement in each of the next three years; and before that, would legal counsel explain to us how the amendments to subsection 45(1) contained in Bill 50 to amend the Health Insurance Act change the status quo with respect to how delistings will be done in the future.

Mr Wessinger: I think the only thing we can answer with respect to that, other than what the minister said, is perhaps to indicate how the process works. Perhaps that might be the appropriate—

Mr Jim Wilson: I pretty well know how the process works. Mrs Sullivan asked this very specific question in the House the other day and we didn't get anywhere there. I'm just wondering if anybody wants to shed some light.

Mr Wessenger: I don't think I can assist you much further, unless you wish some assistance with respect to the question of process. I would not attempt to answer the details of the process myself today because I don't have it in front of me and I might miss something. I don't really think I can add anything further than the minister has indicated on that.

Mr Jim Wilson: I don't recall whether the minister gave us any time lines or not for when all of this would be decided. The minister did indicate to Mrs Sullivan and has indicated to me in the past that there would be some public input. It sounded to me that in response to Mrs Sullivan's question, Ruth Grier said: "Yes, the OMA has a list of services we're going to deinsure, and the government has its secret list. We're going to compare the two lists"—and then it sounded like there would be a cooling-off period where the public would be involved. I want to know whether that's a political line or whether there's a real commitment out there to involve the public in this delisting process.

Mr Wessenger: As I said, unfortunately I don't have the details in front of me, but I understand that there will be public involvement with respect to the final decision with respect to the matter of which items that come from both lists would be considered.

Mr Jim Wilson: In order to meet your expenditure control plan, what's the time frame of the \$20 million you have to delist this year?

Mr Wessenger: I'll ask Dr LeBlanc to—

Dr LeBlanc: First, as a point of technical correction, as I'm aware, there is only one time. It's not each year; there's just one \$20-million exercise.

Mr Jim Wilson: It's \$20 million over three years then?

Dr LeBlanc: No, it's a one-time adjustment. It was planned to take effect January 1, 1994. I think we're somewhat behind the time and we're going to have to run pretty fast to make that. I think the minister will make her announcements on the process when she deems the time appropriate, but it is very active work, and you are correct in understanding the minister's observation that it would involve the opportunity for the public to participate.

Mr Jim Wilson: So it'll be Dr Ruth's Christmas gift to the people of Ontario when she delists these things.

Could I go on to just having the more legal explanation of how Bill 50 changes the current way things are delisted in the province, what new powers or deleted powers etc?

Mr Wessenger: I will ask, are there any new powers in this regard?

Mr Williams: There's nothing in the present bill or the motions—when I say "the present bill," the bill as it will be amended—that affects the schedule of benefits at all whatsoever. That section has been now taken out.

Mr Jim Wilson: If you look at—

Mr Williams: Are you looking at the motions or are you looking at the original bill?

Mr Jim Wilson: No, I'm looking at the original bill that was presented on June 14. I must say that the actual numbering of this particular bill is the most confusing thing I've seen. I think we're in section 2. Anyway, it's the section dealing with clause 45(1)(i) of the Health Insurance Act. It says "prescribing services that shall be deemed not to be insured services, or not to be insured services in prescribed circumstances, and prescribing the circumstances." Then there's an addition of (i.1), which doesn't appear in the original Health Insurance Act. To me, this changes the Health Insurance Act. I've compared the two. I've had discussions with people about what it does.

Mr Williams: If I can go back to my original—

The Chair: Can I just note for those who undoubtedly are following this at home with their own copy of the original act that this is in the middle of page 3.

Mr Jim Wilson: Could I just ask what the numbering of that clause is I've referred to in Bill 50?

Mr Williams: To go back to my earlier comments, all those sections of the bill will now be disappearing as a result of the motions the government will be moving. If I can take you back to the top of page 2 of the bill, forget the new motions for a second and we'll just look at the old Bill 50 and I'll tell you what's left.

You'll notice there's a subsection (2) that talks about the Medical Review Committee; that section remains. The (2.1), which is the section referring to the number of members of the Medical Review Committee, remains. There's a subsection (3) which has a bunch of paragraphs going down: 1, 2, 3, 4, 5. Those are sections referring to the practitioner review committees; that remains. Likewise, the (1.1) that follows that subsection and deals with the number of members of the practitioner review committees remains.

The balance of the bill as you see it, down to the Hospital Labour Disputes Arbitration Act, will all be coming out, except for one or two of the regulation-making powers which will be put back in, which deal with the prescription of the number of members of those two committees that I just referred to. So the balance of the bill and the issues that you're raising now, those will no longer be part of the bill.

Mr Jim Wilson: I appreciate that clarification. With respect to delistings, then, could we have an overview of what the current procedure is? Because in dealing with groups concerned about in vitro fertilization, concerned about other possible delistings, I think they deserve an explanation of how it's done now behind closed doors, through regulation. How do you get legislative authority to implement the OMA agreement? It raises the question, are the two lists being submitted,

one by the government, one by the OMA, and there was no need to have any legislative authority for the process?

1750

Mr Williams: There's currently authority in the Health Insurance Act, under subsection 45(1), to prescribe what are insured services and those things that are not insured services. To the extent that we need legislative authority, it's already in existence.

The only caveat I would put on that is that we have agreed with the Ontario Medical Association that we would consult with it before we made changes to that schedule of benefits. In fact, in the current agreement, which Dr LeBlanc has referred to, we now have a process where we'll be involving the public as well.

Mr Jim Wilson: In this act and the intact provisions with respect to the delisting by regulation that currently exist in the Health Insurance Act, this act and any amendments thereto in no way override your current agreement, because of the date you've put in with respect to the OMA agreement.

Mr Williams: Just to give you some history—

Mr Jim Wilson: Because of the June 14 date or whatever.

Mr Williams: —the fact we already have the agreement doesn't really change what we'd been doing for years before we even entered into an agreement with the OMA. In essence, the schedule of benefits that was in place was as a result of a schedule we got from the doctors themselves actually.

Mr Jim Wilson: I know, but I think both opposition parties are well aware of how things were done in the pharmacists' sector in the past and how they're done today. Now that they've unionized the OMA, you're going to be treated like a union. You'll go into hard collective bargaining and, unless you have it in writing, you'll want to make sure no legislation comes along to override any agreements you have. Just to be perfectly clear in my own mind, you have, is it June 14, and this bill doesn't override any agreement signed thereafter and that's the protection overall for the government-OMA agreement?

Mr Williams: That's correct.

Mr Jim Wilson: And it takes us up to April 1, 1996?

Mr Williams: That's correct.

Mr Jim Wilson: The OMA agreement talks in some areas about things extending into the year 2000. I was confused about that.

Mr Williams: Dr LeBlanc can answer better on that.

Dr LeBlanc: The existing agreement, which was entered into on June 4, 1991, made provision for a six-year economic agreement. So the way to think of it is that between the second year and the third year, which

is this year, you cut the two pieces apart and insert three years, so that the third, fourth, fifth and sixth years got pushed into the future. Those are the same third, fourth, fifth and sixth years that pre-existed prior to June 14. This is a three-year insertion. Therefore, in effect, the economic agreement, as a result of that, becomes a nine-year agreement: one, two, a, b, c, three, four, five, six. That makes all of us feel the next century's pretty close, because it gets right up tight to the turn of the century.

Mr Jim Wilson: Would you undertake to give us a copy of the 1991 OMA agreement, to make sure we all have it?

Mr Wessenger: Yes, certainly.

Mrs Sullivan: Does this mean there are no critics' statements?

Mr Jim Wilson: I'd be happy to give Mrs Sullivan the next five minutes. I've spoken for an hour and a half. I don't think I can think of any creative new twists on this one.

The Chair: That's why I asked for one of the statements and I thought the response was that you were doing that through your questions.

Mrs Sullivan: I certainly wanted a chance to put some issues on the table.

The Chair: Perhaps tomorrow. We have three witnesses which would presumably provide some time. The Chair is always prepared to look liberally at the clock.

Mr Jim Wilson: I don't think there would be any objection, certainly none from myself, if Mrs Sullivan wanted to put some issues on the table which might be fruitful for tomorrow's discussions.

Mrs Sullivan: It certainly won't take long, but I think there are some issues that should be there.

The Chair: There were just two amendments left that we hadn't discussed, that dealt with the title. Can I just ask, was there any question about those or shall we leave them and if something comes up, it can come up in clause-by-clause?

Mr Williams: I assume those are self-explanatory, but if you have any questions as to why we've changed the titles, I'd be glad to explain them.

Mr Jim Wilson: Is there anything we should know as to why you changed the title?

The Chair: Mrs Sullivan, if you want to make some comments, it's six minutes to 6.

Mrs Sullivan: As you know, we started out with the first approach to Bill 50, as it was introduced in the House, with the belief that the bill was a disgraceful piece of legislation. Our position was that it should have been withdrawn in its entirety, that it was an attack on the Canada Health Act and on the Ontario Health Insurance Act and was highly problematic.

There are still some reasons to consider that the bill should be withdrawn, albeit now having seen the government's intentions with respect to amendments. We believe that Bill 50 was put forward in the most cynical way as a ploy for negotiating with the OMA and that it was a thinly disguised threat. I believe that went too far, that people in various communities across Ontario and patient organizations, groups of people who are receiving care and who were frightened by the implications of Bill 50, were in fact caused additional stress by the way this bill came forward.

We are concerned about how well thought out some of the issues are in this redraft. We'll be interested in hearing extensive testimony on the third-party billing issues and, I would hope, some of the requests that I have put on the table today with respect to which acts and regulations require physicals and other medical checks. We are concerned about where the unregulated health worker, an employee or a job applicant, is left in terms of liability. I think that while inoculations are excluded, according to the parliamentary assistant, there are many other areas where physicals are required, and we would want pretty firm evidence that there is no rational health reason to discontinue those physicals.

I think that the provisions in the amendments to Bill 50 on physician resources are just so minimal as to be embarrassing. I hear Dr LeBlanc when he says this is not an entire physician resources policy, this is not an entire underserved-area policy. The approach here is inadequate. We have seen the government bounce from whim to whim on the entry of new physicians into practice, on how individuals are going to be allowed to go into what is apparently an underserved area, how they're going to be compensated and so on. There is no full physician resources strategy or health personnel strategy.

I think it's about time that the Ministry of Health stopped being simply a claims benefit payment vehicle and addressing issues in those terms and started to look at the patient-based need, to provide a timely access to service provided by practitioners who are competent to provide that health service, and that emergency care and life support are given high priority and that small rural communities are not left out overnight or on the weekends because those services are not available.

I also don't believe that the kind of limitations around this physician resources policy as described here are appropriate. One has to deal with physician resources not at the end of the scale, as people are entering practice, but at the beginning of the scale, as people are

looking to make choices for entering the profession of medicine. To say that for a three-year period these bets are on and subsequent to that period those bets are off and there will be something else means there is very little opportunity for young people who are not only planning their professional life but making choices many, many years ahead. In high school, they are choosing courses that will ultimately lead into medical school, if that's what their career interest is. They are choosing extracurricular activities that will assist them in going there.

The decisions about physician resources can't be made as people are entering the practice of medicine, as this bill will impose for the next three years. It should be made in a longer-term, integrated strategy that includes alternative remuneration models, that includes all the issues that have been raised, but there should be an integrated strategy. It should not be developed in the Ministry of Health by itself. I think this bill is sadly wanting in terms of that kind of strategic thrust for physician resources.

On the fraud reporting, I think we are going to hear many other interventions before the committee. I don't see my physician, and I don't think physicians see themselves, as policing the system. I think it's clear that they are concerned. We've certainly heard those concerns in the public accounts committee and elsewhere with respect to the potential for fraud that exists in the health system.

In my mind, there is no accurate measure of fraud. We've seen a fairly sloppy report that projects fraud and risk to the system over a broad range of areas and we're now seeing demands being made on professionals to report only certain aspects and only certain areas, with questionable repercussions to themselves from a personal point of view and from a professional point of view. Once again, I think the strategic base is not there and I am very concerned about these sections of the bill.

Mr Chairman, as we conclude and just so we will know when we ultimately reach clause-by-clause, I wonder if we could have some indication before we proceed of what sections of the amendments are in order to proceed with when we get to the clause-by-clause part of the bill. I suspect that many of the new amendments are not in order and I think we should know that.

The Chair: I'll take that under advisement. It now being, in the immortal words of the Speaker, 6 of the clock, the committee will stand adjourned until tomorrow at 3:30 here.

The committee adjourned at 1804.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Poole, Dianne (Eglinton L) for Mr Eddy
Sullivan, Barbara (Halton Centre L) for Mr McGuinty
Wessenger, Paul (Simcoe Centre ND) for Ms Carter

Also taking part / Autres participants et participantes:

Ministry of Health:

LeBlanc, Dr Eugene, executive director, negotiations secretariat
Wessenger, Paul, parliamentary assistant to the minister
Williams, Frank, deputy director, legal services

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Tuesday 19 October 1993

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Mardi 19 octobre 1993

Standing committee on social development

Comité permanent des affaires sociales

Expenditure Control Plan
Statute Law Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne le Plan
de contrôle des dépenses

Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 19 October 1993

The committee met at 1542 in room 151.

EXPENDITURE CONTROL PLAN
STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE LE PLAN
DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Projet de loi 50, Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Chair (Mr Charles Beer): Good afternoon, ladies and gentlemen, and welcome to the second meeting of the standing committee on social development with respect to Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act. This afternoon we will be hearing from three organizations: the Ontario Medical Association, the Ontario Hospital Association and the College of Physicians and Surgeons.

ONTARIO MEDICAL ASSOCIATION

The Chair: Our first witness this afternoon is Dr Tom Dickson, who's the president of the Ontario Medical Association. Welcome to the committee, Dr Dickson. We're pleased you could join us this afternoon. Would you like to go ahead with some opening comments, and then we'll get into a question and answer phase.

Dr Tom Dickson: Thank you very much. Just a few weeks ago I seemed to be appearing in the same room and a very similar makeup, although the committee's different. As you're aware, we're here to discuss Bill 50. I will keep my comments relatively brief so that there is some time for questioning.

With me today are Bernita Drenth, Jacinthe Boudreau and Steven Barrett, colleagues of mine from the OMA who will help out with some of the questions.

The Chair: If you would like them to be with you at the table, that's fine.

Dr Dickson: I think for now we'll just hold off and then we'll see how things go. Bill 50 in its original form was draconian and ill conceived. Its potential was such that this one piece of legislation could have destroyed Ontario's already strained health care system. The proper delivery of health care is too vital to this province to be sacrificed to a short-term agenda that

ignored the input of providers in the interests of patients.

While understanding today's fiscal realities, physicians remain dedicated to preserving our health care system. For that reason, we've worked diligently, through our framework agreement with government reached back in 1991, to improve efficiency and cost-effectiveness in the provision of quality health care services.

We were pleased, therefore, when government returned to our negotiating table this summer and we could begin to discuss in a more rational manner the challenge of dealing with serious fiscal constraints while seeking to maintain excellent standards of care.

Bill 50, as it stands today, reflects with one exception, which we'll get into, the outcome of our negotiations with government as embodied in the 1993 interim economic agreement. I'd like to briefly discuss three areas in which the government proposes to amend Bill 50.

In the physician resource provisions: In terms of physician resource measures, the bill contains a temporary moratorium on fee-for-service payments to doctors who have not practised in Ontario before and who were not trained in Ontario, with various exceptions described in the new section 19.1 of Bill 50.

I should note for committee members that some of the considerations leading the OMA and government to recognize the need for a temporary moratorium are described in the OMA-government agreement itself, in the preamble to schedule 3. I have copies for committee members if you don't already have them.

From the OMA's perspective, the government's original proposals to lock newly trained doctors out of practice by imposing significant reductions in their fees under OHIP was completely unacceptable. The agreement, now reflected in the proposed amendments to Bill 50, at least protects the product of Ontario's medical training establishment.

Although it does place limitations on the ability of new non-Ontario-trained physicians to practise on a fee-for-service basis, this is a temporary—and I repeat temporary—moratorium in effect at maximum for the duration of the social contract period; hopefully for a shorter time period given the government's commitment to attempt to negotiate physician resource agreements with other provinces.

As well, I should emphasize with the committee that the legislative measures in Bill 50 are but one part of the overall approach to physician supply and distribution

provided for under our agreement. By way of example only, the government and the OMA are currently negotiating a master contract to provide for positions for physicians to meet the needs of people of Ontario in underserved communities. In fact non-Ontario-trained physicians who are affected by the temporary moratorium in Bill 50 would be eligible for these positions.

The OMA also supports the Bill 50 provisions containing improvements in the area of third-party service billings. In 1992, the ministry and the OMA agreed to rewrite the then existing third-party regulations to clarify what was and what was not a third-party service.

Nothing in the new agreement changes this, but instead the government has agreed to amend Bill 50 to make it clear that where a third-party service is requested, the third party requesting the service will ultimately be responsible for paying the doctor rather than the patient. From the perspective of the patient, this is a significant improvement since at the present time there is no independent legal obligation on the third party to pay or to reimburse a patient where the patient has paid.

As well, we have agreed to continue to look to the courts to enforce third-party payment obligations as is presently the case where there is a dispute. However, the OMA and government have agreed to work together to try and develop an alternative, less expensive and more accessible administrative mechanism to deal with third-party disputes.

I would like to draw the attention of the committee to the serious concerns the OMA has over the proposed amendment to Bill 50 in relation to the mandatory reporting of suspected health card fraud. The OMA is as interested as the public and members of the Legislature in effective measures to control health card fraud.

In fact I appeared in this committee room three or four weeks ago and made that very point for about an hour and a half. For that reason, we negotiated specific provisions in the agreement dealing with health card fraud, including the introduction of a new photo identification card.

We also specifically negotiated a provision obligating the government to provide a mechanism making it possible for physicians to report suspected fraud without incurring liability. At the present time, although there are certainly cases when doctors suspect fraud and believe that the doctor-patient relationship would not be compromised if OHIP were advised, they are afraid to report because of the risk of legal liability.

Now, however, the government proposes to bring in a mandatory reporting obligation with physicians being guilty of committing an offence under the Health Insurance Act and facing other uncertain liability if they fail to report the possibility of, to quote from the

amendments, "a person who is not a resident" seeking OHIP coverage as if the person was a resident. We oppose this unnecessary and inappropriate legislative and governmental intrusion into the integrity of the physician-patient relationship.

It is one matter to conclude that we as a society value a child's physical and emotional wellbeing and safety over the integrity of the physician-patient relationship in the case of reporting something as serious as child abuse. For that reason, physicians support the mandatory reporting of suspected child abuse. But this is of a different scale altogether in comparison with possible health card fraud. No one's life or safety is at risk as a result of suspected health card fraud. Physicians should not be conscripted to serve as the government's health card police. Doctors are doctors and not private investigators. This really is a money issue and not a care issue.

1550

There is no question that physicians would in appropriate circumstances report fraud when they see it, but that is significantly different from imposing on physicians a role where they become the accuser and, most likely, the inquisitor of their patients due to mere suspicion. That clearly lies outside of our role as trustees of our patients' welfare.

In the OMA's view, to be required to report whenever there are reasonable grounds to believe someone may not be a resident is an impossibly vague and uncertain standard for physicians to apply in the normal course of their day-to-day practice. What degree of likelihood is required before someone may not be a resident? How is the physician to form a belief as to whether someone is a resident when this calls for legal and factual understanding of the concept of residency, which lawyers and courts have trouble grappling with?

What if a physician did not believe someone should be reported, but someone else says the physician had a reasonable ground for such a belief? How much and what kind of information which forms the basis for the belief that a person may not be a resident must be reported to the general manager? Since physicians will be liable for an offence if they do not report, physicians may feel compelled to report or scrutinize their patients in circumstances which will in fact do significant and irreparable damage to the physician's relationship with the patient.

Physicians confronted with the belief that a person may not be an insured person will wish to seek an explanation from the patient before reporting their patient to the general manager. The imposition of this kind of investigative and confrontational role may significantly alter the integrity of the doctor-patient relationship.

Moreover, physicians may face the possibility of legal liability if the discussion with the patient is overheard by a third party. As an example, many of these inquisi-

tions of the patient and his background will surely take place in waiting rooms around the province and it'll be left up to the physician's staff. Waiting rooms are not the most private places in the world, and often third parties are going to be in that room and will overhear this inquisition taking place.

No doubt there are cases where it would be appropriate for a physician to report his or her belief that a patient is not eligible for OHIP coverage, but this should not be mandatory. Rather the appropriate balance—and I would stress the word “balance”—should be struck by leaving it to the physician's judgement as to whether a physician's good-faith belief in the possibility of health card fraud can be reported without jeopardizing the integrity of the physician-patient relationship.

The government should be responding to the legitimate concern of physicians that if they do, in good faith, voluntarily report suspected fraud, they face possible legal liability. The answer is to remove the concern over liability, as the government and the OMA agreed during negotiations, not to ignore that agreement and bring down the heavy hammer of mandatory reporting.

Forcing physicians to do something they would otherwise be prepared to do voluntarily in appropriate circumstances is more likely to lead to resistance, not cooperation. As a result, the OMA proposes permissive reporting mechanisms which would protect physicians from liability where they, in good faith, report suspected health care fraud. This is the only option which (1) is consistent with the government's obligations under our agreement, (2) preserves the integrity of the physician-patient relationship and (3) is workable and realistic in real-world practice.

Thank you for your time. I'd be happy to entertain questions on any topic relating to Bill 50.

The Chair: Thank you very much, Dr Dickson, for your presentation. We'll move to questions.

Mr Stephen Owens (Scarborough Centre): Starting at the end of your presentation with respect to mandatory reporting, I didn't have the pleasure of hearing your presentation when you were last here, but one of the issues that I struggle with as a legislator is understanding who and where the responsibility to report does lie and how you effectively place that responsibility.

In terms of whether or not it's a care issue, perhaps it's not a care qua care issue in the strictest sense, but ultimately, if there is not some effort to reduce what is viewed as a serious problem of fraud, then effectively care will be affected at the end of the day, so I guess I need some clarification on why you feel as an association that your members, who derive their income from a particular system—why there is what appears to be,

and I don't want to put words in your mouth, an unwillingness to accept responsibility for ensuring that it is an efficacious system and in terms of ensuring that people who are entitled to care get the best care possible and that those who, for whatever reason, are not entitled to receive care in this province do not receive the medical services.

Dr Dickson: Let me start out by alluding to my presentation a few weeks ago. I don't think anyone here would doubt my enthusiasm, and maybe my enthusiasm for reporting fraud was interpreted as supporting the mandatory mechanism.

Our goals are the same: I don't think anyone around this table disagrees that our goal is in fact to eliminate fraud from the system; on that we don't disagree at all. I would not disagree at all either that physicians have to shoulder their burden of responsibility in reporting health card fraud. The problem is, how do you do it? If you want to get to your goal, what's the most logical, workable method of getting there?

We believe a permissive form of reporting in fact will be more workable in a grey and fuzzy area, that it'll be more acceptable to physicians and to patients. Quite frankly, physicians feel very uncomfortable about getting involved in a police investigator role with their patients in the examining room. We're not trained to do it and we feel uncomfortable doing it. We'd like to do it and have the protection from liability, but we need some permissive nature to that process that allows us to use our judgement, taking the rights and our concerns about the patients in mind.

I know it balances on a knife edge. It'd be nice if there was a nice black and white answer. We want to do our part, but we think the permissive route is really the most workable route and will work the best for doctors.

Mr Owens: Then in terms of how you view the current language, you see that you're not protected as a practitioner from legal liability?

Dr Dickson: No. It's my understanding that the changes that are in the rest of the bill with respect to liability are satisfactory.

Mr Owens: Then it's your view that you are playing a more “coercive” role in the elimination of health care fraud than you or your organization feel comfortable in doing?

Dr Dickson: It really boils down to: If there is a reasonable ground, how do you establish the reasonable ground? Presumably that's by acquiring information. Once the suspicion is there in the physician's mind and they must inquire of the patient further information to decide whether they're going to report or not report, that really does put the physician into a confrontational police kind of role, an investigative role, with the patient. That's not the role I was trained to provide. I'm there to provide care and comfort to my patients. That's

what I was trained to do. I'm really not much of an investigator when it comes to fraud. It might be the better solution, I suppose, from a technical point of view, but from a practical, provider's point of view, we believe it's not the best.

Mr Owens: Is there an understanding from your organization and perhaps in discussions with the Ministry of Health about whether there's a pattern in terms of the kinds of procedures people would be coming in for, whether it's transborder prenatal care or—where does the fraud take place? Does it take place more in the emergency room? Is it in the office of the GP? Is there an understanding of where the fraud takes place and whether there is a specific type of procedure that seems to be more open to—I hate to use the word “abuse,” but that's more open to being used by those who perhaps are not entitled to care in the province?

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Dr Dickson: To go in reverse order, I don't think anybody could suggest there was any given procedure or way of identifying types of care that were delivered that you could target or about which you would suspect that this might be where you should look for fraud. Clearly, there are places where you might logically assume you should look, and that's where you have a more mobile population: emergency departments; that kind of situation where people are arriving who don't have an ongoing relationship with the person they're seeking care from. Automatically, there's no history to the relationship, and if there's no history to the relationship, then fraud is more likely to be missed in some manner. But that's the only way I think I could ever answer that question. I'm not aware that anybody else has any better information.

Mrs Barbara Sullivan (Halton Centre): It probably won't surprise you if my questions also concentrate on the reporting aspect that will be required under this legislation.

One of the concerns in terms of much of the anecdotal information that's been put forward with respect to potential fraud in the system has been that much of the information relates to visible minorities. There ought to be some caution, as we're looking at these kind of reporting requirements, if there are targeted groups and if much of that anecdotal information is related to those scenarios.

As a consequence of that kind of concern, I wonder if you could tell us, if this legislation proceeds as the amendments are now before us, how you would advise doctors across the province what, in your view or in the view of the OMA executive, would be reasonable grounds to believe that a person is non-resident; and how you would advise them, given that these are mandatory reporting requirements, of the steps that would have to be taken to avoid prosecution under the Health Insurance Act and the fines which might follow;

and what other kinds of steps you would take as an association; and further, if this would indeed change the role of the college, from your perspective—and the college is going to come later—in terms of adding a new disciplinary function to the college's activities.

Dr Dickson: That's quite a series of questions. Obviously, we have not gone into any depth or detail in terms of trying to figure out what we might have to advise our members about suspecting reasonable grounds; quite frankly, I don't think we could. When we're dealing with hypotheticals, we could probably imagine a scenario where someone presented who clearly did not belong to a card, when the sex was clearly wrong; obviously, the card did not belong to that individual. That might constitute a reasonable ground that the cardholder was inappropriate. Beyond that, it just becomes greyer and greyer the deeper you go into what are reasonable grounds; I think it could become very problematic.

I think you're quite right in identifying clearly that if residency is the major determinant of insurability under our system, then clearly immigrants to this province are the ones who are automatically going to be front and centre in this whole process. That's going to place physicians and anyone who deals with a heavy immigrant population, and I do personally in my practice, in an awkward position. It's going to be very difficult.

I don't think I could really advise you as to what concrete proposals we're going to suggest to our members on how to protect themselves. It's difficult to provide advice on protecting oneself against a vague and indeterminate form of system, and that's what this represents as it is. That's why we'd like to see it permissive rather than mandatory. It allows some softness to the process and will allow some discretion, and in health care we obviously have to use a lot of discretion a lot of the time.

The role of the colleges is going to be very difficult, because most physicians do not want to run afoul of their college at all under any circumstance and they'll take this very seriously. One of the concerns if it's mandatory and how seriously they take the potential threat from the college if they don't live up to this legislation is, does it change their zeal in the inquisition, if you will, of their patients and how aggressively they'll pursue this? That will be up to the individual physician, but lurking in the back of his mind ultimately will be that fear, that he doesn't live up to the standard. Not knowing what the standard is places everybody in jeopardy. Again, that's why we call for permissive legislation as opposed to mandatory.

Mrs Sullivan: There is another section of the amendments that have been put forward which calls for voluntary reporting, under section 43.2 of the Ontario Health Insurance Act, which would allow any person to report to the general manager any matter relating to the

administration or enforcement of the Ontario Health Insurance Act. Is that too broad a scope, do you think, in terms of dealing with the issues of fraud, and is it appropriate that that kind of reporting mechanism be available to any person, including physicians, when it seems to me that this section and the amendments that are put forward were specifically to address the question of fraud?

Dr Dickson: I am going to defer to one of my legal colleagues for a moment and ask about that.

Mr Steven Barrett: I'd be happy to answer the question if I had listened to it being asked. Sorry.

The Chair: While Mrs Sullivan prepares to rephrase the question, would you mind introducing yourself?

Mr Barrett: I'm Steven Barrett, legal counsel to the OMA.

Mrs Sullivan: Under new amendments that have been put forward by the government under what would be section 43.2 of the Health Insurance Act, any person could report to the general manager any matter relating to the administration or enforcement of the act or the regulations, even if the information reported is confidential or privileged and despite any other act, regulation or other law prohibiting the disclosure of that information. Is that too broad a reporting mechanism to be included in this act, considering that it overrides not only the Public Hospitals Act but the kind of standard patient-doctor confidentiality provisions and that the intent of this section of the amendments is to deal with the fraud issue?

Mr Barrett: The short answer to that question is yes, it probably is too broad. The OMA's preference, as Dr Dickson has indicated, would be to permit physicians to report suspected fraud, not to require them to do so, but to limit the ability to report to just that: suspected health card fraud.

We're not sure that the way 43.1(2) defines the events relating to health card fraud quite captures the appropriate description of what ought to be reported. What we do think is that the appropriate amendments we would prefer here would be to omit 43.1 altogether, the mandatory duty, and to recast 43.2 as a permissive provision in respect of at least physicians, and perhaps others, to report on any matter relating to health card fraud—that obviously isn't the legal language, but one would have to develop that language—and then to retain 43.3, which is the protection from liability for making such a report. That would be sufficient from our perspective.

Mrs Sullivan: In your judgement are the provisions of 43.3 adequate protection from liability for physicians?

Mr Barrett: I'm a lawyer, so I always like to use a hundred words when one will probably do. There have been discussions on this that I've been involved in with

legislative counsel, and I think the OMA is content with the view that the language of 43.3 referring to "no proceeding being allowed to be brought" is broad enough to capture all the types of proceedings that might be brought against physicians. On that front, I think we're comfortable.

In terms of the scope of the matters which are protected, I think it's fair to say that the OMA believes the protection which—it's difficult to read grammatically, but what it means, we think, and we hope a court would agree, is that unless a person acts both maliciously and without reasonable grounds in making this report, they're protected from legal liability.

It's helpful to put a comma after the word "person" in the fourth line there—it makes it easier to read—but legislative counsel doesn't like commas, so you'll have to live without one, I guess.

Mrs Sullivan: Is it your understanding that "no proceeding" would include actions that may arise in a disciplinary hearing?

1610

Mr Barrett: The view of legislative counsel is that "no proceeding" would include disciplinary proceedings before the CPSO. I'd certainly be interested in hearing the CPSO's views on whether this is caught. I think it's fair to say, and Mr Williams and others can agree or disagree with me, that the intent is certainly to include those. If it's your collective view that "no proceeding" wouldn't be broad enough to include a CPSO proceeding, then it ought to be amended to make that clear.

I think the OMA's view—and we could be wrong; I'm just a lawyer—is that the "no proceeding" language is broad enough. That's the view of legislative counsel, the view of the ministry lawyers. I understand from being here yesterday that you've asked for some further information. Certainly, if there is a concern that this isn't broad enough, the OMA would support and urge you to amend it to make it very clear that CPSO proceedings are caught.

Mrs Sullivan: Am I finished? My time is up?

The Chair: I'll give you one more, but we have a couple of others. While we do have some flexibility on time, I'd like to allow others.

Mrs Sullivan: I wanted to refer to the agreement, which spoke about some of the technical means of two-way communication between the OMA and the ministry with respect to assistance in card verification and so on.

Two of those issues, or actually three, were written into the schedules to the agreement, one calling for photo identification, a second calling for interactive voice response mechanisms to be available to all physicians and the third requiring that the ministry introduce swipe technology into 50 hospitals a year for the next three years.

In the public accounts hearings, the testimony from

the OMA indicated that the interactive voice response technology was not workable, although the agreement was signed in August, and that in fact swipe technology was preferable. The minister has indicated recently that indeed the photo card is not going to be the technology of choice, that holograms are being looked at, and yesterday we had another hint from the parliamentary assistant.

Is the OMA willing to go back to the table and move away from these kind of very specific contractual relationships or agreements that have been included in the schedule to that agreement to ensure that in fact there is an appropriate health care technology that will move us into a database management system?

Dr Dickson: Our view is that we have an agreement with government. It is a contract. We would be very reluctant to reconsider any of these proposals. We do not believe a hologram is a substitute for a photo ID card at all. It's certainly a way of preventing reduplication of cards or creating counterfeit cards, but in fact it doesn't allow the verification by visual identification across the table. In fact, we think they'd be missing a great broad swipe of potential fraud out there, so we don't think that's the answer. We suggested the photo ID card as one leg of a four-legged table for stamping out fraud. We'd hate to see it softened in any manner whatsoever.

The IVR reporting mechanism is awkward, and therefore we don't think it is the ultimate solution at all. The swipe card reader certainly will help tremendously, and we'd like to see that proceed expeditiously. We understand the government is working on it. It's not easy but they're proceeding. We would not support the dropping of the photo ID card at all.

The Chair: Thank you. Mr Wilson, then Mr Hope.

Mr Jim Wilson (Simcoe West): Thank you, Dr Dickson, for your presentation. Before I get to my question, I want to refer to some comments made by Mrs Sullivan at the beginning of her round of questioning with respect to anecdotal information about health card fraud. She indicated that a lot of that anecdotal information seemed to point to visible minorities.

I want to say for the record that I am not aware of any case that was brought up by my party or my colleagues in the Legislature that involved visible minorities. It has not been a question surrounding this issue. I am not aware of the colour of the skin of many of the suspects that have been brought up in the Legislature, except for one case, which was a story related to me, and subsequently related to the Legislature, regarding four Iranian citizens who allegedly were visiting a radiology lab in Toronto. I just want to clear that up for the record, because I think it leaves a false impression out there.

With respect to today's proceedings, I have a very

simple question, Dr Dickson, and I'm glad legal counsel is with you. As I read the 1993 interim agreement on economic arrangements, ie, the OMA-government agreement which later became the social contract, it does not mention, or my reading would be that it does not infer in a substantial way, that doctors on a mandatory basis would become health card police.

I'm just wondering, do you have a legal opinion? It seems to me that if this agreement is forming the basis of Bill 50, Bill 50 does not reflect what's in this agreement with respect to reporting and I would think the government is in violation of its own social contract.

Dr Dickson: I guess your question is, does the agreement contemplate a mandatory mechanism? Our view is no, it does not, it contemplates a permissive or a voluntary mechanism. We believe that's what the wording supports and legal counsel—

Mr Jim Wilson: That would be mine: "and a permissive or voluntary mechanism." And as I read paragraph 3, "The Ontario Medical Association agrees," that section talks about a pilot project only. What's the legal opinion and what avenues do you have? If you can't get Bill 50 at this committee, I would think you could challenge the government as a breach of contract.

Mr Barrett: Dr Dickson has written to the minister indicating that in the OMA's opinion, that paragraph 12 on schedule 2 which sets out: "The government of Ontario's commitment obligates the government to provide a detailed mechanism by which a physician can," not must, but can, is able to, "report detected or suspected fraud, without incurring liability"—and then, as you pointed out, Mr Wilson, paragraph 3 in terms of the OMA's obligations talks about a pilot project which would enable physicians to report. Again, enabling, not mandating, physicians to report.

I was involved in the negotiations and the OMA made it very clear at the negotiating table that it would not support a mandatory reporting obligation. Certainly the OMA, in addition to the significant policy concerns that Dr Dickson I think has outlined before you, also takes the position that for the government to act in this way is contrary to the agreement and there may well be remedies available to the OMA in that regard.

Mr Jim Wilson: Under the social contract, are there not remedies built into the statute itself?

Mr Barrett: There's a dispute resolution mechanism set out in the OMA-government agreement where one party alleges the other has breached the agreement, and you'll recall during the social contract negotiations they only filed a bad-faith bargaining complaint and obtained an interim order forcing the government back to the table, so that's certainly available to the OMA. It would be preferable, obviously, for the legislation simply not to proceed as presently proposed and to be altered to comply with the agreement.

Mr Jim Wilson: I certainly give you my caucus's best wishes with respect to this issue. As you may have noted if you were watching yesterday—it's in the transcripts—very clearly we do not support this particular section of Bill 50 as it's my understanding, and Dr Dickson confirmed some of this when he appeared before the legislative public accounts committee dealing with health card fraud, that physicians were not extensively consulted in any way, and some would tell me not consulted at all, when the last government brought in the health card system. Now that it's all messed up, you're required to police the system, and I and my colleagues, as you know, are very much opposed to that.

Secondly, I would think that given what the parliamentary assistant said yesterday, he was very clear in his opening remarks that the government may possibly introduce a photo card system. I make no comment at this moment on whether or not a photo health card system is the way to go, although if you saw question period today you may know that it's not.

There's a very clear sentence in the social contract in this agreement that says that the government will introduce a new health card with a photograph. I guess you'll know the answer to that, according to this agreement, by December 31 of this year when the government has to make its final decision. If the government doesn't move ahead with that, would that be something else you might challenge this agreement on?

Dr Dickson: If the government didn't move ahead on the photo ID card, yes. As counsel has suggested, there are remedies in our agreement. There is a mechanism for resolving that kind of situation.

Mr Jim Wilson: Can you just quickly bring us through those remedies. Where do you end up?

Mr Barrett: The agreement calls for an entity known as an umpire, basically the arbitrator, to make a decision. That decision is final and binding on the OMA and the government and it can be reviewed in the courts. But at the end of the day the OMA takes the view that any decision of the umpire is binding on the government, so there would be a proceeding much as in a court, but in a slightly more informal way, before an umpire.

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Mr Jim Wilson: To be clear, this agreement overrides any other avenues or remedies that might have been provided in the original social contract legislation.

Mr Barrett: Maybe the way to answer that is that as far as we're concerned there's nothing in the social contract legislation that ousts this agreement.

The Chair: Before moving to Mr Hope, the parliamentary assistant wanted to raise a couple of issues.

Mr Paul Wessinger (Simcoe Centre): I'd like to have counsel respond to some of the comments that have been made.

Mr Frank Williams: I'm somewhat sensitive to using this as a forum to get into issues about whether or not the agreement the government has entered into with the OMA in fact says what the OMA is before you alleging it says. My view is that it's silent on whether it's mandatory or voluntary. Perhaps, as counsel has indicated, this may be an issue that has to be brought up before the umpire, but I don't think this is really the proper forum for us to be debating whether in fact our agreement says one thing or the other.

Mr Jim Wilson: My suggestion to the committee, then, would be that we stay these proceedings until this issue is decided. I'm not going to waste my time for a few weeks here, given that all of this may be—

Mr Larry O'Connor (Durham-York): You've wasted a lot of our time.

Mr Jim Wilson: Larry, didn't I read a nice letter from your constituent the other day? All of this may be a waste of legislative time when we have Bill 100, the sexual abuse bill, that the public certainly wants dealt with. Could I have a response from the parliamentary assistant on that, Mr Chairman?

Mr Wessinger: I don't think I'm very agreeable to your suggestion, Mr Wilson, on how to deal with this legislation. We're having hearings at the moment, and of course we still have to go to clause-by-clause. I think the most appropriate time to determine what the amendments are is during the clause-by-clause process.

Mr Randy R. Hope (Chatham-Kent): I'm just trying to get a better understanding of this, dealing with the OMA and the members you represent. I'm curious about how many of your members have closed practices. I listened to your comment about conversation in the waiting room of the office, and I'm just wondering, of the doctors who are members of your association, how many have closed practices.

Dr Dickson: By "closed" do you mean they're not accepting new patients?

Mr Hope: That it's not a clinic, where you can walk in and automatically get doctors' services; where they have selected patients that are related to the doctor. You just can't walk in off the street. It's not a clinic provision but a closed practice, which means you have to go through an examination process to have that doctor examine you. Don't tell me you haven't heard the term "closed practice." That's a normal state.

Dr Dickson: You mean a practice where you would have to have a referral to get an appointment?

Mr Hope: No, I'm talking about a general—oh, boy. *Interjections.*

The Chair: Order, please.

Mr Hope: Let's put it in perspective, because I listened to some of the concerns that were raised about reporting. My own doctor, if you go to him you're

lucky, because he doesn't accept new patients. That's called closed practice, if you don't accept new patients, which means he knows everybody who's walking in and out the door. He knows my wife, my kids, everybody else. That's referred to in rural Ontario as a closed practice.

Your concern, you say, is confidentiality. I'm saying the potential for this to occur would probably be in emergency rooms or in clinics, where there is potential fraud—everybody's using the word "fraud"—with people who have health cards who are not entitled to them.

I'm listening to the concerns of the OMA. They want to help cut health care fraud—that's the terminology they use—but they don't want to because they want to do it at their own discretion. I guess I'm having a hard time with that balance.

Dr Dickson: I understand your question now; I wasn't sure of the definition of the term "closed practice." Probably the best guess I can give you is that likely about a quarter of the practices in this province would be defined as closed practices. That's just a guess off the top of my head. It would only apply primarily to general practitioners who in fact have a large patient roster and simply can't work any harder and choose not to work any harder.

I'm a consultant. I only see people on referral; therefore my practice, by definition, is 100% open. Everybody I see is a new patient and I have no history with them at all.

Mr Hope: But it's open on referral?

Dr Dickson: Yes.

Mr Hope: So my GP, my family doctor, would have to refer me to you; it's still a closed practice. I can't walk in off the street and see you; I have to be referred, so it's a closed practice, right?

Dr Dickson: Except in an emergency, through the emergency department. I'm on call one night in four, so those people who come through walk-in clinics, where there's no history in the relationship—a fair number of those referrals in fact come with very little historical relationship. It doesn't solve the problem. It may lessen it, but it doesn't solve the problem.

Mr Hope: I'm sitting here and listening to the comments that are being made, and I'm one of those taxpayers who loves to see what services are being provided for me. I have an insurance policy, and when my car gets in an accident, when work is being done on it, a bill is prepared and I verify and sign it and say, "Okay, all right to pay; those are the services that were rendered."

I'm looking at a way to put this all in the perspective of trying to control it. I'm serious about controlling health fraud. I hear it from my seniors and everyone else.

I was just having a hard time understanding when you were talking about in the waiting rooms. There's a gatekeeper, always, to get to you, because you deal in a specialized practice. You have a gatekeeper, and the gatekeeper is the normal family physician. You're very unlikely to get somebody referred from an emergency room into a specialized service. They usually say to go see your family physician. I've never seen that situation where I went into an emergency room, for whatever reason—the doctor's office wasn't open and I went to the emergency room for services. They'd say, "Go back on Monday and see your family physician, and he'll make the referral to get to a specialist if a specialist is required."

I'm just wondering if it's really true that we're after really controlling the misuse of health care cards that are being used by people who are not entitled to the luxury that we have here in the province of Ontario.

Dr Dickson: Let me absolutely clear: We want to do exactly what you want to do. The question is, how do we get there? We believe that a permissive route will allow us to get there in a much more expeditious way, is much more workable and is consistent with our agreement with this government.

As to the question of whether patients are always referred and there always is this historical linkage to the physician, as I said, that may limit the exposure to fraud, but it does not eliminate it, because we still see emergency cases. We still get referrals through walk-in clinics. You may come from an area of the province where you don't have walk-in clinics. I come from an area where there are dozens of walk-in clinics.

Mr Hope: We have a doctor shortage, so we don't have walk-in clinics. Sometimes we don't have doctors.

Dr Dickson: Anyway, it's simply not a black-and-white issue.

The Chair: I'm afraid I'm going to have to call a close to this presentation, but I want to thank you for coming. I should probably also thank you for allowing us to understand better the workings of the lawyer's mind, because I think we've had some interesting statements here as well that maybe we'll use later. Dr Dickson, thank you very much for coming before the committee today.

1630

ONTARIO HOSPITAL ASSOCIATION

The Chair: I call the representatives from the Ontario Hospital Association, if they would be good enough to come forward. Welcome to the committee. If you'd be good enough just to introduce yourselves for Hansard, then please go ahead with your presentation. I believe it's been distributed to members of the committee.

Mr Peter Harris: Thank you, Mr Chairman, members of the committee. My name is Peter Harris; I'm the

chair-elect of the Ontario Hospital Association. I'm joined by Ron Sapsford, the OHA vice-president, teaching and specialty hospitals.

We're pleased to be here today to offer to the committee some comments on Bill 50, the Expenditure Control Plan Statute Law Amendment Act, 1993.

We must express at the outset our disappointment with the very short notice given for these hearings and the consequent difficulties facing organizations like ours in preparing comprehensive responses to both the bill and the proposed amendments.

As well, we would remind members of our strongly stated opposition to the bill in its original form. Our concerns were summarized in the letter to the Honourable Ruth Grier dated July 6, 1993, which condemned the bill for its provision of extraordinary discretionary power to the government of the day to determine the types of services to be provided and the circumstances under which they would be provided. This extraparliamentary authority for the government and the degree of intervention in health care provision would have been intolerable.

While the amendments will improve the bill greatly from our point of view, we believe there are still many areas of uncertainty that can now only be clarified through regulation. It is our view that the bill should not proceed to third reading until interested parties, including members of this committee, have had a chance to review any proposed regulations.

When the bill was first introduced in the House, the association had several major concerns with the scope and the powers of intervention that were being ascribed to cabinet. The amendments curtail these powers, and these changes stem from the new agreement between the province and the Ontario Medical Association. While the agreement addressed many major concerns, it also raised other hospital concerns relating to the restriction on the migration of physicians into the province. We are pleased to note that these issues have also been addressed in the amendments to this bill.

I would therefore like to comment today on three remaining aspects of the bill that continue to concern us, and they are: (1) eligible physicians, in subsection 2(3.1) of the bill and section 19.1 of the Health Insurance Act; (2) third-party services, in subsection 2(3.2) of the bill—that is, sections 36.1 to 36.4 of the Health Insurance Act; and (3) the duty to report, in subsection 2(3.3) of the bill or sections 43.1 and 43.2 of the Health Insurance Act.

The first of these is the subject of eligible physicians. The proposed government amendments to the bill are essential in terms of satisfying our concerns in the area as they clarify the matters which will now be outlined below.

This section specifies the eligibility of physicians to

bill the Ontario health insurance plan. The current concerns of hospitals have been satisfied by the definitions. There are appropriate protections for physicians who had accepted positions prior to the August 1, 1993, deadline but who have not yet taken up residence in Ontario. This is of particular importance in both the academic and the underserved areas of the province.

The Ontario Hospital Association also supports the power of exemption provided for the Minister of Health. The ability to allow physicians access to the fee-for-service system where their service is required for academic medicine or specific specialties and geographic areas serves to make the legislation adaptable to the needs of the province. Coupled with the direct service contracts referred to in schedule 3A of the 1993 Interim Agreement on Economic Arrangements between the province and the Ontario Medical Association, there seems to be reasonable flexibility in the legislation to provide for the sensitive deployment of future medical human resources.

The second major item is third-party services, and this is perhaps the most difficult part of the bill to really understand. This series of amendments is complex, especially in relation to the existing Health Insurance Act. This section of the bill attempts to define the set of services that are to be paid by third parties, the definition of third parties, the circumstances under which third-party services arise, the payment mechanism and the appeal mechanisms.

The Health Insurance Act itself is a relatively complicated piece of legislation, when taken together with regulation 552. The Health Insurance Act sets out the operating characteristics of our health care system and, to a large degree, how we practice medicare here in Ontario.

Central to the act are the concepts of insured persons and insured services. These two concepts define who is eligible for services covered by the plan and what services an insured person is entitled to receive without payment. The act gives authority to the Lieutenant Governor in Council to prescribe the services that shall be deemed not to be insured services for the purposes of the act.

Bill 50 sets out the case for certain health services that are currently insured services to be uninsured services or, for clarity here, deinsured services. This section, taken together with the 1993 Interim Agreement on Economic Arrangements between the province and the Ontario Medical Association, makes clear that there will be a list of services that will no longer be insured under the Ontario health insurance plan. In future, these deinsured services will have to be paid for by the insured person or patient who requires such services.

The provisions set out in the bill could, however, give rise to confusion in the hospital setting that could cause some difficulty in practice and interpretation unless

there are amendments to the bill or regulations that would make certain matters more obvious. For example, any proposed deinsured procedure in a hospital setting could involve one or more of the following: the services of a physician; application of a general anaesthetic; diagnostic testing—as an example, blood work or X-rays or urinalysis or electrocardiograms etc; and surgery in an operating theatre, not abnormal procedures by any means.

Bill 50 makes it clear that the physician's services related to the procedure would be uninsured and thus billable to the patient. It is not clear to us, however, that the services provided by the hospital relating to the uninsured procedure presented above would also be billable directly to the patient by the hospital.

It's essential that the legislation make it clear that all the costs of the deinsured procedure would be uninsured and therefore borne by the patient. This would include the hospital and the other health care facility services. If this is what is envisioned, the necessary regulatory measures must also be established.

The third key area that concerns us is the one of duty to report. This section deals with the requirements to report to the general manager of the plan any cases where services have been or have attempted to be obtained in a fraudulent manner. While there is no indication of the definition of "prescribed persons" for the purposes of reporting, it is reasonable to assume that hospitals or hospital staff may be included in this list of "prescribed persons." One of the amendments tabled yesterday, we understand, now defines the circumstances under which there is a duty to report.

This is an important amendment which we can fully support. In many instances, cases will arise where there is apparently an inappropriate use of health cards. If there is an intention of designating either hospitals or hospital staff by regulation under this section of the bill, they should also be designated under subsection 11.1(2) of the Health Insurance Act for the purposes of taking possession of a health card voluntarily surrendered.

These are the comments of the Ontario Hospital Association on Bill 50. We would be pleased to answer any questions of the committee or provide clarifications on any of the points that we've raised above.

The Chair: Thank you very much. We begin questioning with Mrs O'Neill.

Mrs Yvonne O'Neill (Ottawa-Rideau): Thank you, Mr Harris. I would not hesitate to say that, as these hearings proceed, and I'm sure they are only beginning, you could submit further comments as you see things arising from the discussions we're having here, because we do realize you've had a very short time frame to put something together.

I have a couple of questions on third-party services, which we discussed rather extensively yesterday in the

context of that particular meeting. I'm having some difficulty wondering why you have combined the deinsured services with third-party services. I have a lot of doubts about the third-party part of this bill, but I haven't yet thought in my mind, as you have, of combining it with the deinsured. Is there a reason you've lumped that together, first of all?

1640

Mr Peter Harris: I'd refer to Mr Sapsford for the logistics.

Mr Ron Sapsford: Ron Sapsford, Mr Chair. The reason we've lumped it under third party is that the section dealing with the deinsured lists or the ability of the Lieutenant Governor to make regulations is in that section of the bill. It seemed on plain reading that, whether third-party services as you would normally understand them or deinsured, the same process followed from the amendment, so our comments are based on both third party and the deinsured list, which was part of the same section.

Mrs O'Neill: I am quite concerned about the third-party services simply because, as you point out in your first paragraph, the bill "attempts to define"; not one of those things is defined. We are awaiting definition through regulation of each of the things you've highlighted and others. My real concern is the enforceability and the education that will be necessary if the third-party services are to proceed as the government mind thinks they will. Could you comment on that at all?

Mr Sapsford: I think this is our view, that this is where the regulations become increasingly important to understand the application of it. There are exceptions now in the Health Insurance Act, however, for certain third-party charges: Hospitals now have the ability under the reg to Bill 4, the provision of records related to insurance, third-party claims and so forth, so I think the principle is established in the legislation and the regulations. What we're not sure about is exactly what additional definitions may be applied to third-party uses.

Of the two, our major concern, however, is about the question of the deinsuring of services and to get clarification that when a service ceases to be insured, it's uninsured for the system as opposed to small segments of the system.

The Chair: We have Mr Hope and then Mrs Sullivan and then Mr Wilson.

Mr Hope: Mine is back to the one that we know what a closed practice is, I hope. I take it you're in full support, according to what I read in the definitions, of duty to report. You have no problem with the legislation in that sense.

Mr Peter Harris: No. The principle of reporting is one we support.

Mr Hope: I'm looking at it from the community I come from, and I used the closed-practice scenario

because that's what most of them are; they know the people on a regular basis. The potential for this to occur is in the hospitals, which you say you have no problem with; you're going to be almost like the gatekeeper before it even gets to the doctor. When I went to the hospital, they do up the nice little cards for you and everything showing you've been to that hospital.

You have no problem with that. I just have a hard time understanding why the doctors are having a problem with the mechanism inside the legislation. I think it's becoming, unless it's just media hype, a serious problem, and I believe there's a way of doing it. I'm glad the hospital association is coming out in favour of it and I would expect my hospitals to do the same.

Mr Peter Harris: I think, first of all, the process of trying to separate wheat from chaff and the truth of how much is there or is not there is a very difficult question; how much actual fraud does exist. In order to try to analyse it, we're looking for some direction about whether hospital personnel are being included in those people who are being asked to confiscate cards. There is a definite logical flow, as you say, because you first of all deal with the administrative aspect when you present yourself at a hospital for a planned procedure, particularly other than the emerg, which is quite a different situation.

Mr Hope: Yes, because there's a way of verifying address and everything and the status, just through driver's licence, by whoever is the gatekeeper, and the hospitals are acting as a gatekeeper. I'm really having a hard time understanding why the group providing the services, some of them—and I don't know the number and I wait, an interesting wait for the number of closed practices; we now clearly understand the definition of "closed practice." They know the family who are their patients very well. Hospitals I guess deal with those who don't have a family doctor; you deal with the flow of that and also whoever else comes in the door, and you have no problem with it.

I'm just trying to get clarification of this whole issue and trying to pinpoint it exactly: if there is fraud, how much there actually is and where it is occurring.

Mr Peter Harris: Those are open questions and they're bandied about. Depending on who's talking, they can make quite a radically different case for the degree of fraud that may or may not exist.

Back to your question about the hospital versus what we heard Dr Dickson talking about, the role of the physician is significantly different in the exercise from that of the hospital. I mentioned the differentiation between the clinical side and the administrative, and we see the hospitals, if that is the intent, performing a role to try to identify obvious cases where there are inappropriate uses of cards.

Mr Hope: But wouldn't it be the same responsibility

as a staff person working in the doctor's office? They take the information that's coming in, the same as your hospital. It's just a larger-sized model, that's all: a doctor's office versus a hospital. You still have a staff person there taking the flow of information, verifying information, asking for proof of address or whatever it might be. There's just two different sizes; you're dealing with a hospital and a room.

It just puzzles me. If we're to truly narrow it down and do the fact-finding aspect, I think we all have to be partners in controlling this. I believe the mandatory process of doing it, because our responsibility is to everyone in this province, is the proper way.

Mr Peter Harris: I wouldn't quarrel with that thesis at all, because the exercise of trying to root out inappropriate use of the health system I think is in everybody's best interests.

Mrs Sullivan: This is an interesting presentation, although I understand you had difficulty to prepare it with such short notice to appear before the committee, particularly given that there were new amendments yesterday that changed amendments you already had received. I think that becomes problematic.

I note that you indicate that you fully support proposed amendments with respect to the duty to report; that that duty would be a mandatory obligation I assume is also supported. Therefore, my questions are going to be comparable to those I presented to the Ontario Medical Association.

What guidelines would your association provide to hospitals with respect to their staff having a mandatory obligation, whether it's nursing staff or other staff, to report instances of non-residents, and what guidelines would you suggest to them in terms of what would constitute reasonable grounds to believe that a person was non-resident?

Secondly, I also want to move into the next section of the bill that relates to voluntary reporting and inquire if your view is that this section is too broad as it's written, where any person may report on any matter dealing with the administration or enforcement of the Health Insurance Act and despite other acts, including the Public Hospitals Act, which require the confidentiality provisions to be respected.

The other issue with respect to mandatory reporting that I had hoped we would be able to get on the table with the OMA that has not been raised is that, to date, the mandatory reporting provisions appear to be directed to assumed consumer fraud and there has been no indication of reporting of what may be attributed to professional fraud. Indeed, we had examples before the public accounts committee that were suspected of being professional fraud; they turned out to be billing errors, although there may well be professional fraud in the system as well. I wonder if you could comment on the

kinds of obligations to report what may be professional fraud under the voluntary reporting scenarios, or why reporting professional fraud should be left out of the mandatory reporting provisions.

By the way, welcome again, Mr Sapsford, to the other side of the table this time.

1650

Mr Sapsford: Thank you. The short answer to your question about guidelines is that I'm not sure. We would enter a process with hospitals and associations to develop those very guidelines, but presumably the guidelines would relate to verification procedures around address and age and the standard kinds of things that would identify a person with the information presented as part of the health card. I think the reason that shifting the health card and making changes there is important is that the health card itself will become a source of information that will help in the verification procedure.

It's not any one thing, but I think a program of activities taken together. If the legislation is passed in this form, it would require either through reg or through the work of the association with members to specify a reasonable form of guideline for hospitals to pursue. Again, the test in this is reasonable and probable grounds, so one could consider putting together some basic tests which could be used to verify those points.

The voluntary provision: I suppose if one is thinking about confidential information dealing with clinical information of a patient, yes, the way it is written is probably too wide. I think it's important, though, in all of these sections, to be clear about the intent of the statute. This section is directed at fraud, not about confidential patient information, so in the course of people's daily activities they may become aware of situations. I think it's important that reporting does not mean the investigation of it—we read this as being clearly within the purview of the general manager of the plan to deal with the issue—but rather to make information available. If you read it in a narrow term to do with the administration of the act as opposed to revealing information of a confidential clinical nature about patients, I think it becomes less intrusive.

Your third question about professional fraud: There are in the Health Insurance Act long sections about the Medical Review Committee, billing practices and so forth, and from our point of view, we would rely on those sections of the act for issues related to professional fraud, if you use that word. We viewed these sections to be dealing narrowly with persons who were purporting to be insured when in fact they weren't insured or who held a card that was not legitimately their health insurance card.

Mr Jim Wilson: Thank you, Mr Harris and Mr Sapsford, for your presentation. I think you raise a very good issue, which the OMA wouldn't touch: the delist-

ing or deinsuring of services. It's an issue that I think should be the focus of this legislation. It was the focus of the legislation in its original draft. The government pulled out some of the more offensive clauses, and I think the public out there has an impression that we're off the hook with respect to deinsurance because the clause has been pulled out of Bill 50. One only has to look at exactly the point you raise, third-party services, which refers back to the Health Insurance Act, and those provisions in clause 45(1)(i) of the Health Insurance Act with respect to delistings, deinsuring: The process is still there.

We know from the OMA-government agreement that \$20 million worth of services will be delisted in the very near future. It'll be done behind closed doors; no public input. I have to say very loudly and very clearly, I'm disappointed that the OMA, previous to you, did not raise this issue. I think they caved in on it.

Secondly, you at least raise it, although in my earlier years, not too long ago, the OHA used to defend medicare and universality and now we see medical groups and hospital sector groups not coming forward with strong statements on that. But let me not be too critical; you at least raise it. You raise it in I think somewhat of a selfish way, though. Your concern is, to put it in layman's terms—and I don't blame you—that these new deinsured services may occur in a hospital setting, and who pays the hospital? Let's put it in layman's terms because I'm not sure the people watching this across the province may have caught that in all this back and forth. It's a legitimate concern for your association; I understand that.

You mention that some of the future deinsured procedures that may be performed in the hospital setting could involve the services of a physician; application of a general anaesthetic; diagnostic testing—for example, blood work, X-rays, urinalysis, electrocardiograms etc; and surgery in an operating theatre.

So my first question is, can you give us an example of a deinsured service that may be a surgical procedure that may have to occur in a hospital setting? You must have had something in mind when you wrote that down.

Mr Sapsford: An example?

Mr Jim Wilson: Yes.

Mr Sapsford: Not having the list, no, but presumably there will in future be services where anaesthetic services would be required. When an anaesthetic is required, one is thinking about an operating room.

Mr Jim Wilson: In vitro fertilization, circumcision, which is still considered an operation, I guess.

Mr Sapsford: Yes, could be. Some of the procedures could be offered, I suppose, in a physician's office and others in hospital. I think the question of the site will to a large extent depend upon what the service is in the first place, but secondly, where the services of

a surgical suite are required, we want this to be clear that the services that are non-insured under the act in fact are billable.

The Chair: The parliamentary assistant wanted to make a clarification that fits in with this line of discussion.

Mr Wessinger: Ministry counsel would like to give a point of clarification.

Mr Williams: I think there's some confusion for the committee on deinsured and third-party services. There's presently in place, as you know, a regulation that lists what are not insured services for the purposes of billing the health insurance plan. Some of those may be third-party services; some of them may not, depending on the particular circumstances. The fact that they are uninsured doesn't necessarily mean they're a third-party service and they've been requested by a third party, so I think you've got to keep those two things completely separate. They tend to overlap a lot, that's perfectly true, but they're not necessarily one and the same thing.

Mr Jim Wilson: I think in the public mind they overlap a lot. The wording of these particular amendments to Bill 50 are highly suspicious, given that it's all going to be done by regulation. How do we know? We don't know what the OMA's list is; we don't know what the government's list is. All we know is that there's a figure and a time frame that says that \$20 million of current services that are paid for by OHIP will be delisted. We don't know what they are. We don't know whether they'll be services that are frequently asked for by a third party. It disturbs me, counsel, and you're not part of the political process, but this section of the bill's been, "Well, that's just referring mainly to doctors' notes and that sort of thing."

The Ontario Hospital Association, I suggest, ought to know, and I'm sure it very intentionally put on page 4 here that surgery in an operating theatre—given that we don't know what's going to be delisted, some surgeries may be deinsured, they may be requested by a third party or meet some of the other criteria here, and then they become third-party billings. If the parliamentary assistant—he was going to make a point of clarification that didn't really clarify anything—wants to tell us exactly what the government's intending to do in this area, what it's intending to deinsure, great, let's hear it. Then we'll decide whether these things are frequently asked for by third parties.

1700

Mr Wessinger: I think it should be made clear that, as I understand this, third-party situations have already been dealt with through regulation. They've already dealt with the instances where third-party items would not be insured items. That has been dealt with, and what is being dealt with here in Bill 50 is merely the question of transferring that liability to the third party as distinct from being on the patient, ultimately putting liability on

the third party for some of those particular—not all of them, but those that are prescribed by the regulations.

Mr Jim Wilson: Let's clarify that. You're referring to regulation 552 and its subsequent amendment of late last year, which specifies third-party services no longer covered by OHIP.

Mr Wessinger: Yes, that's correct.

Mr Jim Wilson: Okay. So you're telling us today, absolutely, that you're not going to amend regulation 552 and its subsequent amendment of late 1992, which was 758, I believe. You're telling us you're not going to do that, so the OHA missed the boat here when it talked about surgery because, as far as I know, surgery is not on the list at the moment. And we're totally crazy and you're never going to amend that regulation; it says right here you can amend that regulation. Why would you want the power to amend the regulation, which you have anyway any time you take it to cabinet?

Mr Wessinger: I don't think that assurance can be given for ever and ever with respect to a question of amendments. That regulation, I understand, deals only with third-party—

Mr Williams: Uninsured services.

Mr Wessinger: Well, it deals with uninsured services, so that could be—

Mr Jim Wilson: For the third-party uninsured services, you're trying to give us comfort by saying there's a regulation there that preceded this legislation. If you'd say to us emphatically that you're not going to touch it, you're not going to add any more services, third-party deinsured services, fine, end of issue—for now. But I don't think you're prepared to say that.

Mr Wessinger: My understanding is that there's no intention at this time to—

Mr Jim Wilson: The other way around this is that you tell us what you're going to deinsure, the \$20 million worth of deinsured services you've agreed to behind closed doors with the OMA, with no public consultation, and I'll drop the issue and we'll decide whether some of those will later be deemed third-party services.

Mr Wessinger: I'll be very happy to respond to that, because I think they're two separate issues.

Mr Jim Wilson: They're not two separate issues.

Mr Wessinger: If you would just listen, Mr Wilson, the issue of deinsured services is that two lists are going to be submitted by the Ministry of Health and the OMA. As you know, the process is for a panel to be established to consider those lists. There's a process so that panel is going to have public hearings to have input from the public with respect to that whole matter, and after the public hearings, then that panel will make a recommendation to the government. That's the process. It's an open, public process.

Mr Jim Wilson: But I think the point here is that on page 4 of the OHA presentation there's a new round of delistings coming. Some of those deinsured services may become subject to third-party billing. Some of those deinsured services may occur in a hospital setting and, rightly, they want to know on behalf of their members who's paying the hospital. It's pretty clear in this legislation that the physician's going to be reimbursed by the third party, but it's not clear who's going to reimburse the hospital.

Mr Wessenger: Maybe I'm misinterpreting what the brief said, and maybe the representatives from the Ontario Hospital Association can add to this, but the point that seemed to be made very clearly was the concern that a physician's services were being deinsured and it was not clear whether all the tests and services that went in relation to that procedure were covered by the deinsurance of the physician's services. I am advised that the ministry is reviewing this problem with respect to that question and is prepared to look at the situation to see if there are any amendments required to clarify the situation. I'll ask counsel, perhaps, to add to that.

Mr Williams: Just one other comment to make. I think we're confusing apples and oranges here. I'll give you a very good example: Take cosmetic surgery. Cosmetic surgery is not something that's requested by a third party; it's requested by the patient. If there are services like that that, after the public process is carried out and we determine which services will no longer be insured services because they are not medically necessary, a patient requests on his or her own behalf, I can't see personally—I'm making a personal judgement here; I'm not making a political judgement—why the patient requesting that service would not pay for it.

If the service is a service that in fact a third party is requiring the patient to undergo, then the third party would be liable, and that's the purpose of the motion: to ensure that, if the third party requests or requires that service of the patient, the third party pays and not the patient.

Mr Jim Wilson: I agree. Just a clarification, though. Your latter point—I agree, but I think the point in the presentation was that the current wording of this section of Bill 50 doesn't assure us. My reading of it and I think the OHA's reading is that the hospital's going to get paid because it just deals with third-party reimbursement to the practitioner primarily. What are you doing about that? That's the crux of this section of the presentation, I believe.

Mr Williams: Yes. To reiterate what the parliamentary assistant has just stated earlier—it got lost in the shuffle—that's certainly an issue that we have been made aware of over the last several weeks and we are willing to work with the OHA to ensure that if we have to make a motion to amend that particular part of the bill, we'll do so.

The Chair: Mr Sapsford, if you would like to comment and then I'm afraid we're going to have to move on.

Mr Sapsford: I guess under section 36.1, the proposed section reads: "a third-party service is a service that...(b) is not an insured service..." according to the regs, and that's what raises the question then about services that may cease to be insured. Because the section goes on to talk about definitions and payment mechanisms and so forth, it's important from our point of view to understand the application.

We would argue that it applies more to just physicians for the reasons we've stated. That OHA is not here taking a position on the comprehensive mix of our health care system is a slightly different question; we're only concerned that what is insured and what is not insured in this legislation is crystal clear for all of us.

The Chair: Gentleman, thank you very much. I'm sure we could pursue some of these longer, but our time has run out. Thank you again for your presentation.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair: I call upon the representatives of the College of Physicians and Surgeons of Ontario, if they would be good enough to come forward. Members of the committee have received a copy of your submission. Would you also be good enough just to introduce the members of the delegation.

Dr Michael Dixon: I'm Michael Dixon. I am the registrar of the college, and with me is Dr John Carlisle, the deputy registrar. Janet Ecker is the director of policy, research and analysis. Dr Carlisle is going to start off our presentation.

Dr John Carlisle: Thank you for having us today to discuss this issue on behalf of the college.

The college supports efforts to eliminate waste and abuse in the health care system and we welcome an opportunity to offer our views in support of such initiatives. However, we must draw to the attention of the committee that introducing new amendments at the 11th hour, as the government did yesterday, seriously hampers the ability of today's presenters to offer detailed and considered input.

Before making our comments today, I want to outline our role vis-à-vis the OMA's so that there is no confusion as to the purpose of our comments. The OMA represents the interests of physicians and negotiates on their behalf with the government on matters regarding remuneration. The college is not a party to, nor are we consulted on, these matters. Rather, our role is to set standards for licensure of physicians and to regulate their conduct in the public interest.

Our original concern over Bill 50 focused on requirements allowing the Minister of Health to determine by regulation how many services a particular patient could

receive and under what conditions. Decisions regarding what medically necessary services are provided to a patient under specific conditions are the responsibility of that patient's physician. He or she is trained to make such judgements based on the patient's clinical condition and needs; ministry officials are not. We are therefore pleased to see that the government proposes to remove these requirements.

However, there is a second issue of concern in the proposed amendments to Bill 50. In the amendments, the ministry has spelled out a complex and potentially intrusive duty to report for physicians and other prescribed persons.

The need for a reporting requirement so that physicians could alert the ministry when patients were improperly receiving health services was first brought to our attention by the OMA in March. The impediment in any scheme of this kind is of course the ethical and legal obligation of a physician to maintain confidentiality surrounding his or her treatment of a patient.

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As members of the committee may be aware, the college was subsequently invited to present to the standing committee on public accounts on this matter. We told the committee that if the ministry creates a new reporting regime to achieve a socially acceptable objective, the prevention of misuse of the health care system, then the college believes that such a regime must (1) protect the core value of doctor-patient confidentiality, (2) be based on clear, understandable grounds for reporting so that both physicians and patients readily comprehend it, and (3) ensure that the reporting regime is structured to achieve this objective.

We have brought copies of the submission we made at that time so you can look at it. Many of those previous comments are still relevant to today's discussion.

Our main caution about a reporting requirement is that confidentiality between a doctor and a patient is and always has been one of the central and core values of medicine. The college feels strongly that the relationship of trust and confidence that doctors enjoy with their patients is central to the benefit that medicine is able to offer to those patients.

As we outlined in our previous submission, if a patient does not go to the doctor when he or she feels in need of medical care or does not feel free to communicate candidly with the doctor, even though it may be embarrassing to do so, then the effectiveness of the treatment is limited and certainly the effectiveness overall of our health care system is similarly limited. Requirements to report potentially interfere with and damage that relationship, to the detriment of the patient.

The current regulations under the Health Disciplines Act, now called the Drug and Pharmacies Regulation Act, and the soon-to-arise regulations under the Regu-

lated Health Professions Act make it clear that the physician shall give no information concerning the condition of the patient or any services rendered to the patient to any person other than the patient without the consent of the patient unless the physician is required to do so by law. I may just add parenthetically that that section arises directly from the section of the Canadian Medical Association code of ethics, which says precisely the same thing.

We recommend that any reporting requirements should be clearly required by law in the relevant statute; in this case, the Health Insurance Act. The government has heeded our advice, but the manner in which this has been done, both in the first set of amendments to Bill 50 and in yesterday's revised motions, raises additional difficulties.

When the suggestion of a reporting requirement was first raised, the misuse of a health card was the event to be reported; in other words, the physician was to report if a patient attempted to obtain health care services by presenting a health card that had not been issued to him or her. In the first set of amendments, the requirement was expanded to include a broader category of reportable behaviour. The ministry has now changed that to focus on whether or not a patient is a resident. Doctors or others making a report are to do so if they have "reasonable grounds to believe" that this circumstance "may have occurred."

In our previous submission, the college expressed the concern that physicians and patients often do not understand the specific legal meaning of words like "fraud," "abuse" and "suspect," the terms first used to describe the reporting proposals. To illustrate our point, we used the example of physicians who call the college because they believe that fraud or abuse has been committed because a patient visited the emergency ward for a minor problem. In another example, you will recall that I told those of you who were here about a family doctor who had called me to tell me how reluctant senior citizens were to go back to the doctor as directed for fear of being perceived as having abused the system.

We recommended that the requirement to report be triggered by a very specific, easily identifiable circumstance, defined by words which could be clearly understood by the parties to the process. We specifically cautioned against a requirement for doctors to report patients they "suspect" have committed "fraud" or "abuse."

While the ministry has now removed the requirement that a report be made upon a suspicion, we believe that the phrase "may have occurred" raises a similar problem. The bill is asking people to report based on a suspicion that wrongdoing may have occurred. In fact, one could argue that the words "may have occurred" imply the mere possibility that potential misuse of the system has happened, raising the likelihood that a very

large number of reports will have to be made on quite speculative grounds.

Our experience with other mandatory reporting schemes in medicine, for example, the Child and Family Services Act and the Highway Traffic Act, reinforces the need for a well-defined reporting requirement. Unless clear language is used and clear circumstances are described which trigger a report, physicians will be fearful of a new system.

If this occurs, they are likely to do one of two things: either avoid reporting, which will undermine the objective of the requirement, or overreport in circumstances where it is not reasonable or appropriate to do so.

The college's original suggestion, presented to the public accounts committee, was that the physician should be required to report when "he or she has reasonable and probable grounds to believe that a patient has submitted an OHIP card not issued for the patient," or words of a similar nature. This is an understandable principle which, with enhanced identification cards, would be something easily identified and understood by patients and doctors: "If you present somebody else's card to the doctor or hospital, you will be reported."

To the layperson, "reasonable and probable grounds to believe" implies some sense that the person making the report is doing so based on some objective fact or information that would generally be considered reasonable by others. The use of the words "may have occurred" implies that the reporter may judge the circumstances according to a more subjective view influenced by preconceived opinions and perceptions rather than the objective facts at hand. Patients should not be left wondering whether they will be reported or not based on the doctor's personal views of what constitutes abuse of the system.

We would respectfully ask the committee how they wish this reporting requirement to be implemented. A new patient walks into the doctor's office. What should cause the doctor to suspect that the person is not a resident? How does the physician then determine whether this person is a resident? Based on his or her belief that the patient obviously comes from another country? Should the doctor ask for proof of citizenship or immigration status before he or she accepts the person as a patient? We suggest that the ministry give careful consideration to our original proposal, which represents a more workable requirement.

Another necessary component of the reporting requirement is that it be mandatory. You will find that we raised this as well in our previous submission. We can understand the concerns about asking physicians to comply with yet another mandatory reporting scheme, but if there is to be reporting, it must be mandatory if it is to achieve the stated objective.

As I said earlier, under the current regulations, physicians shall give no information about the patient's condition or services provided without consent or unless required to do so by law. To be consistent with that regulation, the requirement to report misuse of the health care system, as defined by the ministry, must be a requirement of law.

The passage of an amendment to Bill 50 giving merely an option to report will have the legal effect of making reporting illegal. As I explained to the public accounts committee, because of the current regulations, in order to be allowed, reporting must be required and not merely permitted.

Making a report, even under a mandatory regime, can create a potentially difficult situation for the physician. Naturally, any patient who is reported by a physician as having been guilty of some wrongdoing and who is subsequently exonerated will be very angry and may wish to file a complaint with the college or launch a civil lawsuit alleging defamation of character and breach of confidence. We find that the college receives a number of complaints from patients about whom reports have been made under existing requirements for mandatory reporting. Even if the complaints committee agrees in the end that the physician was justified in the report, it can act as a significant deterrent to physicians from reporting. Without, therefore, a clearly defined legal obligation to report, many physicians may avoid doing so in order to protect themselves from having to defend their actions.

The ministry's proposal to protect from liability those who report on reasonable grounds will certainly be of some assistance in removing this disincentive in respect to certain kinds of civil actions. This of course will not protect from other kinds of civil actions or from having complaints made at the college, but it should be noted that a discretionary reporting regime is likely to increase complaints against physicians.

We would like to raise another concern about the proposed amendments which make the reporting requirement apply to prescribed and other persons, "even if the information reported is confidential or privileged and despite any act, regulation or other law prohibiting disclosure of the information."

As we have stated repeatedly, tampering with the confidentiality of the relationship between a doctor and a patient works to the detriment of patients, especially to patients who may be vulnerable. The effect of this amendment will be in effect to remove this protection granted to patients under confidentiality regulations under the Regulated Health Professions Act and other legislation: the Human Rights Code, the Public Hospitals Act, the Freedom of Information and Protection of Privacy Act and all sorts of things. It is difficult to justify the anticipated benefits of such a sweeping and potentially destructive reporting requirement when

weighed against the possibility of undermining a core underpinning of the health care system's effectiveness.

The final point I wish to make today refers to the proposals to increase the size of the Medical Review Committee. As members will know, this committee has the mandate to review the billing practices of physicians brought to its attention by the ministry. The college administers this process on the behalf of the ministry.

The amendments propose to increase the size of this committee so that it will be able to handle an increased workload in a more efficient manner. The college is certainly prepared to accept this additional responsibility, consistent with the current provisions of providing resources to do so.

In conclusion, the college supports the government's efforts to minimize and prevent abuse of the health care system. We urge the ministry to take a cautious approach to avoid producing unintentional negative consequences which could undermine the government's objectives. On behalf of the college, thank you for inviting us to make this presentation.

1720

The Chair: Thank you very much for your submission. We'll move right to questions. Mr Wilson.

Mr Jim Wilson: Thank you, Dr Carlisle, for the presentation, and of course Dr Dixon and Ms Ecker. You raise a very good point where you give the scenario of a patient walking into the doctor's office, and you ask a very good question: What should cause the doctor to suspect that a person is not a resident? It's an excellent question.

The first thing that comes to mind is that doctors could get themselves in a lot of trouble and certainly be labelled racists if accent or colour of skin is something they're supposed to judge in whether you're a resident or non-resident; of course, we know that in our multicultural society that would be not only inappropriate but probably illegal. You're in a quandary, and I'm not really sure what the remedy is. I'm not totally clear, because you did go very quickly—

Dr Carlisle: I was trying to be merciful.

Mr Jim Wilson: —and it is getting on in the day and we deal with a hundred issues a day, about what exactly you need to see changed in this legislation. You agree with mandatory reporting as the way that reporting is to be done, without any clear process or guidelines?

Dr Carlisle: If there's going to be reporting, in our view it's got to be mandatory. One way of looking at it is to look at the words which require the mandatory reporting. They talk about "reasonable and probable grounds" to believe that one of the triggering circumstances "may" have happened.

We have just looked at this since this morning so it's difficult to be definitive about it, but if the threshold is

reasonable grounds to believe—that is to say, if I heard it from somebody who's reasonably reliable—but what I'm to believe is that something may have happened, it seems to me the word "may" implies the possibility that something has happened. It doesn't suggest that it's more likely than not; it doesn't suggest that it probably happened. It says it may have happened. I think we're in a real quandary.

If I'm to anticipate what I expect Mrs Sullivan may ask me about what guidelines will I give and what you've really asked as well, I think I have to say you have to report any circumstance where this may have happened or, alternatively, where it is not impossible that it has happened. That's a very low standard. If we get the kind of compulsive behaviour that several other deputants here today have alluded to, and I could certainly verify from my own experience that you will get some of this very compulsive reporting, then I expect a whole lot of people will get reported and perhaps the true instances will get lost in the chaff of huge numbers.

I don't know how you remedy that except that it seems to me you could do it in a couple of ways: First, you could be, as we've suggested, a little more precise about exactly what it is that's to be reported; second, you could put the standard of when the suspicion is to result in a report a little higher up the ladder. Instead of saying that it may have happened, you might choose the words that have been used in some other similar statutes, to say reasonable grounds to believe that it has happened or reasonable grounds to believe that it probably happened. All those things would push the standard up a little bit and reduce the anxiety level.

The other point I would make is that at some point the patients have to understand too what it is that will cause you to be reported. If I were a patient, particularly if I were a member of a visible minority, I might be concerned with this wording, that that alone might be considered enough by some people to raise the situation to a level where it is not impossible that I might be a person doing these acts.

Mr Jim Wilson: Thank you, Dr Carlisle, because I know you're both a physician and a lawyer. I'm going to ask the lawyers to hash it out here. Mr Wessenger, where did your sidekick go?

Mr Wessenger: Well, I will call Gilbert Sharpe, as he's here.

Mr Jim Wilson: While you're proceeding to the chair, Gilbert, on page 6, the suggestion the college made—it says it's their original suggestion, and I do remember the public accounts committee hearing in which this was made—was that the test be "reasonable and probable grounds to believe that a patient has submitted an OHIP card not issued to the patient." My question would be, why did the government reject that test?

Mr Wessenger: Maybe I'd better start off because Mr Sharpe, unfortunately, is not that familiar with the specific legislation. I think the point has been well raised that the standard is a lower threshold for reporting in Bill 50 than is suggested in the presentation by the college, that "he or she has reasonable and probable grounds to believe that the patient has submitted a health card not issued for the patient," or we'll say, "or used a card which the patient is not eligible to hold," for instance, if you wanted to give something similar.

Mr Jim Wilson: I understand that, but they want to up the standard.

Mr Wessenger: I think that's the point; that's right.

Mr Jim Wilson: I'm assuming this point has been made to the government, and I want to know why you rejected it. You've had a lot of time to think of Bill 50; you brought in amendments yesterday, you brought in amendments before that. Why did you reject the suggestion of the College of Physicians and Surgeons?

Mr Wessenger: I'll make an attempt and then I'll ask Mr Sharpe to follow up, as he's more the expert in the legal aspect than I am.

If the standard in the act is that you have to have reasonable grounds to believe, which in other words is that fraud, in effect, may have occurred—so there are two aspects: reasonable grounds to believe and, if there are no reasonable grounds to believe, combined with "may have occurred," I would suggest that would require a presumption of a fair likelihood of a fraud occurring; it's not a mere speculative possibility.

I'll ask Mr Sharpe to elaborate on whether he would agree with my interpretation in that regard.

Mr Gilbert Sharpe: I tend to agree with the point made by Dr Carlisle. The thrust of a provision that uses the term "may" does potentially open it up very broadly. If the sense was that the ground should be it's likely that something happened or it's probable, then one would think you would use that language. We're into the realm of possibility now and you're quite correct.

On the one hand you've got reasonable grounds to believe, which is of course the standard objective test for reporting, but then on the other it's that a possibility of something occurred. If we're promoting that position, it would be that we want to err on the side of all possible frauds being reported and then being actively and aggressively investigated to determine whether in fact that happened. If you wanted to do anything more with a greater degree of certainty, as Dr Carlisle pointed out, one would simply say, "has reason to believe that the act occurred."

The Chair: Mr Sharpe, I neglected to ask you just at the beginning if you could identify yourself for Hansard.

Mr Sharpe: I'm the director of legal services at the Ministry of Health.

Dr Carlisle: If I may make a short reply, Mr Chairman, I think Mr Sharpe in his usual erudite way has made it clearer than I could that the concern we have is about the reasonable expectations of the parties, and that the reasonable expectations of the parties impact on the relationship between doctors and their patients, and that therefore anything which is as contingent as a mere possibility, with which we seem to be faced, is going to result in a very large number of mandatory reports.

Remember, if you don't report, there's a penalty. We're talking about a \$5,000 fine, a conviction under a provincial offence and appearing before the discipline committee in that you committed a provincial offence in relation to the practice. We're not talking about a minor reprimand; we're talking about being found guilty of a substantial offence.

What you're going to get is all kinds of reports about people, based on what we called in our submission a "speculative ground," the mere possibility that they might have committed this offence which could, as you've suggested, Mr Wilson, involve the sorts of allegations which might well otherwise, if it weren't for the saving provision of this act, be contrary to the human rights act.

Mr Jim Wilson: correct me if I'm wrong, but CPSO is not involved in any heavy-duty way with the introduction of the health card system.

Dr Carlisle: No.

Mr Jim Wilson: Yet you're going to face, as you've just pointed out, the possibility of huge penalties for not reporting suspected or potential fraud. I'm not sure what words we're supposed to be using at this point. The Chair asked me to submit a quick question, so I'll save the preamble and just ask, do you think that's fair?

1730

Dr Carlisle: I don't suppose it's our place to say whether it's fair or not. What we're trying to say is that it may not be workable. We said at the beginning that we support the government's objective of trying to suppress health care fraud, so we're against anything which may turn out to be a big, unworkable system that gets everybody angry and achieves nothing. We perceive there's some danger of that happening in the regime that's been presented, so we'd like to find something that's more workable so we can make it work.

Mr Hope: I want to go back to your scenario of walking into the doctor's office. We understand what a closed practice is, right?

Dr Carlisle: I think it's one of those ones that have been abandoned by people who have left.

Mr Hope: No, a closed practice—

Laughter.

Mr Hope: In the scenario you used, and you used

the word "reliability," I know with my own family doctor, it's no problem: just walk in there; he knows everyone. If I go to a hospital or a specialist I've never been to before, I have to fill out paperwork. You asked, do I have to prove citizenship? While I'm busy filling out the paperwork, I would say it doesn't hurt to check off one more block to say, "the information provided above is factual." That then removes the liability of individuals, because the person stated that the information provided to the doctor is factual. It removes liability. I'm not a lawyer, so I'll let you lawyers determine that one.

I'm sitting here listening to the hypothetical views, but I'm going to take it from somebody outside the system, the Ministry of Health and the doctors themselves. When I walk into a new hospital I've never been to, I'm asked to fill out all these forms. I'm asked to prove residence, date of birth, all that good stuff: "Are you entitled to a health card?" or coverage under OHIP or whatever you want to call it. If they check off yes, they've removed all liability.

As to reporting, if you have to provide evidence, that you've got a driver's licence, or you are a resident living here in the province of Ontario and you're entitled to it, you usually have to prove it. So what if I have to photocopy my birth certificate or something? It's not relating to the information of health care being provided. They use the card as currency.

Let me tell you, when I go to K mart and my Visa has been overdrawn, they're certainly going to either refuse to take my Visa card or else grab it and say, "Sorry, we're going to shred it for you right now." In order to narrow this so-called potential fraud that everybody thinks is occurring all over the place, to narrow the scope of it, I'm saying you ask the people to provide the information.

I just don't know where the problem is, why everybody is making it such an issue. So what, if you ask me for one more piece of documentation besides the other information I already have to provide to the specialist I go visit, the new hospital I go visit? I don't have to worry about my closed family doctor, because he already knows everything about me.

Dr Carlisle: Mr Hope, you make some very telling and useful points. They're the sorts of points that might be made by a number of members of the public who weren't familiar with some of the complexities of the issues we're dealing with.

You suggested, for example, that the patients could produce their driver's licence or their birth certificate. It's very interesting, because if we look at the requirements for eligibility under the plan and even the concept of residency, which, as you may know—in fact, in the few hours we had available to us today to look at this, I tried to gather together a number of cases that deal with the definition of the word "residency." As you are

probably aware, under the Income Tax Act, there are hundreds of cases in which lawyers and judges of the Supreme Court couldn't figure out whether people were resident or not.

You mentioned driver's licences. Well, I would ask again, does the possession of a driver's licence indicate that you're resident for the purposes of this act? It clearly does not. Does the possession of a Canadian birth certificate indicate that you're resident for the purposes of this act? It does not.

I asked the public accounts committee when I was last here what question you could ask. Suppose we had the staff from the ministry here today and said: "Okay, we're going to set up a counter here and we're going to have people come in and we're going to discover whether they're eligible for one of these cards." We've got about five to 10 minutes with each person, and neither of the parties is a lawyer. I suggested to the committee, and I stand by the proposition, that I cannot think of anything you could put down in a question that would establish whether somebody is eligible which would not contravene the Human Rights Code.

You made the point that your Visa card would be confiscated if it were overdrawn, and that raises an interesting question for me. Would it be reasonable for the doctor or for the hospital or for anybody else to say: "Because this person has an Ontario health insurance card, they must perforce be eligible to receive services?" Whether that's so or not depends entirely on the system that was used to distribute the cards.

If in fact we had the system that was used the last time that the cards were distributed, where we simply sent one to everyone who already had one, one could hardly rely upon the proposition that the patient had a card to demonstrate that the person was eligible to receive services. Similarly, if the thing had their picture on it, one couldn't be sure it had been issued to somebody who was eligible if there is no question you could ask the person in a reasonable period of time which would determine whether they're eligible.

The government, as far as I can tell, has made a major and commendable effort in setting up this new set of amendments to try to define something that's a little clear. At least it's clear that we're talking about whether a person is a resident and eligible, because the last set, upon which we prepared our original submission to you, which we haven't read today because of these changes, got the problem mixed up. You could have the problem of whether the person was resident and eligible, but you could easily have resident and eligible people getting mixed up in the words, that maybe they were attempting to receive services they weren't entitled to, like services that weren't medically necessary.

I'm very sympathetic to what you say, and it's very, very sensible. The trouble is that it's too complicated for that proposition.

Mr Hope: Let me throw it back at you, because some of the concerns are "probable cause" or "grounds to believe." Let me tell you, if you listed all those things off and if I don't have one of those documents, that's going to leave probable grounds. Let's face it, the doctor is not the one who does the intake information. It's the staff who do the intake information, the staff of either the doctor's office or of the hospital or the clinic. You list all these documents, and if I only have a health card and I don't have any other pieces of documentation to support it, it definitely leaves possible grounds to suspect that this person is holding a health card without even being a resident of the province of Ontario. If he's got a couple of pieces, that filters through the system until somebody comes up with a foolproof system.

You mentioned the photo card or the photo ID, whether that would even work. What you have to do is start from square one, start doing 100% checking. I'd have no problem producing two or three pieces of identification, which you normally have to do under any other circumstances, which eliminates—

Interjection.

Mr Hope: I didn't interrupt you when you were shooting off, so just listen.

The Chair: Order, please.

Mr Hope: What you're doing is lowering the risk factor. I'm saying we have to start somewhere. Everybody is going to wait for the 100% check. A 100% check is not ever 100%, but what you're doing is allowing a mechanism to remove possibilities and to put to rest somewhat the concerns that some people have of probable grounds or whatever.

When you look at rural Ontario, it's not going to be as big an issue as it's going to be in the larger centres, because we know most of the people in our communities. The doctor in a town of 1,000 people knows who the people are. In Metro Toronto, it becomes a whole different story.

I'm looking at a way to start the process of removing the possibilities. If everybody is waiting for the perfect card to come out of the system—I mean, they'll be a millionaire because they can now work on all the other cards that are out there, the feds and provincial government and everybody else, to try to streamline. I'm just looking at a way to begin the process, to narrow down, to find out where the problem actually exists, or even if it exists.

Dr Carlisle: I have a few comments to make about that. I'll invite counsel to comment on the question if the Chair will permit. I have sympathy for the view of people who don't every day deal in the court. We're talking here about a provincial offence. We're talking about proof. I doubt very much, subject to what counsel may say, that the mere fact that the person presents and has only a health card and nothing else would constitute

reasonable and probable grounds to believe anything. In fact, anyone who took that approach would soon find himself charged with an offence under this act.

Secondly, I want to make clear that we've stated our position: We support this effort and we want to try to make it work. Mr Hope, you talk about having a perfect system; I just want a workable system. I don't think there will be a perfect system. What's been presented to us is not a workable system, and as a workable system it will be far from perfect. It will not only be imperfect, it will be a system that will produce a tremendous amount of trouble, for patients primarily but also for practitioners, without producing very much significant benefit for the system.

1740

Mrs Sullivan: I'm very interested in this presentation because I think it speaks to some of the issues we identified as problematic with these amendments. I am going to go back to the standard question, but it's not going to be the first one, while Gilbert Sharpe is here as well.

Why wouldn't the test for reporting be reasonable and probable grounds to believe that a person is not an insured person? "Insured person" is already identified in the act. I don't know if this is helpful: I was interested in your recommendation with respect to the definition not issued to the patient, but there are other aspects with respect to eligibility that may not be covered. Anyhow, I'm going to put that on the table just for interest.

On the question of the mandatory nature of the reporting, of course the OMA has come forward with one point of view and you have come forward with another. The Minister of Agriculture and Food learned to his horror that "mandatory" had a certain legal meaning, that there was a penalty attached and he was going to be left in the position of having to prosecute farmers for not contributing to a stable funding arrangement for agricultural organizations.

I was pleased that you have, as part of your presentation, included a discussion of the penalties, both the penalties under the Health Insurance Act, \$5,000 when not otherwise specified, and the penalties which may involve disciplinary hearings before the college that would automatically follow a conviction under the Health Insurance Act. I think members should keep those in mind and understand that the reporting provision and its mandatory nature is a very serious and onerous duty on the person who is prescribed, whether it's a physician or other health care professional.

I am now going to go back to my original question and ask you this: If the bill proceeded in its current fashion, what would the college's role and direction be to physicians whom it licenses, how would the college handle disciplinary hearings, and what advice would you give to physicians and surgeons in Ontario with respect to how they should go about identifying a non-resident?

Dr Carlisle: There are about five questions embedded in there, and I'll try to deal with them in order.

We've explained, I hope adequately, why it is, in a mechanistic sense, having regard to the current legislation and that which will shortly take effect, why this has to be mandatory to be allowable. That's partly based in the law and partly based in the ethics, including the CMA code of ethics; as you know, the OMA is a constituent element of the CMA. It's clear that's the core value of the profession and it's also the regulation.

I think there's another feature we need to understand. It's been alluded to a little, but I'm going to try to pull it together. What forces motivate the doctor in favour of reporting or against reporting in a circumstance where it will clearly be uncomfortable at a personal level to report? On the one hand, we have the proposition that if you report, there is the substantial risk that even if it turns out to be a well-founded report, but certainly if it turns out to be an unfounded report, that person will be very angry and will file a complaint.

You may be protected from some kind of lawsuits, that is, lawsuits that don't allege malice—although you show me a person in this circumstance who will not file a suit that alleges malice and I'll show you a strange person. In any event, you're protected from suits that don't allege malice; you're not protected from other suits. You may be protected from an action in the discipline committee, if that's a "proceeding," but you're clearly not protected from a complaint, which is not a proceeding even under the Statutory Powers Procedure Act, so it's clearly not a procedure that would be covered by these words.

You're going to be complained about, so, if I may use a colloquialism, there's going to be a big hassle involved in reporting. I suggest that if there is not some countervailing force to that, some knowledge that you have a duty and an obligation to report, you can expect the reporting rate to be essentially nil. Again, I talk about what we'd like to have work. If you want it to work, I suggest that also moves in the direction of mandatory reporting.

In terms of the advice you say we would give, as I say, we've only seen this since this morning so obviously we haven't had occasion to look at it, but off the top of my head it seems to me we would have to say that, first, you must act on reasonable and probable grounds. That is to say, the information you have as to the occurrence of one of the enumerated events would have to be reasonable and probable, which is to say it would have to have come from a source that a reasonable person would think was reliable, that it could not be a mere rumour or overhearing somebody in the diner and maybe only hearing part of their conversation but not all of it; that would not be enough. It would have to come from a reasonable source.

But what are you reasonably to believe? You are apparently reasonably to believe that something may have happened. I look at the word "may" as a plain, ordinary citizen, look at what does "may" mean? To me, "may" means it's possible that that happened, so I think we would have to say to the physicians that they must report if they have reasonable and probable information that something might have happened; in other words, that it is not impossible that the person in question has done this act.

I suggest to you that that means, with virtually anybody who walks into the office who I don't know and who exhibits characteristics that I think might be very distasteful for some of us to consider, I would have to consider that it is at least possible that that person is committing one of these offences and therefore I'd be obliged to report. I think that in walk-in clinics and in emergency rooms you'd be looking at a report of a fair percentage of the people who walk in under this provision, so I think we'd have to tell members to do that.

In terms of what we would do in the event that there were failure to comply, as you know, under the current regulations and under the regulations proposed for the RHPA, it is an offence of misconduct to commit a provincial offence, to breach the laws of the province in respect of practice, so clearly, if it came to our attention that a person had been found guilty of such an offence, they would have to appear in front of the discipline committee charged with misconduct.

Generally speaking, we act on complaint. I expect we would receive plenty of them under this regime. If we failed to act on those complaints, as you know, the Health Disciplines Board has the authority to oblige us to act on them and I expect it would do its duty, so I think we would have a fair number of cases.

I believe most persons are familiar with the process, but there would be a hearing before the discipline committee, which would have the authority to impose a penalty ranging from reprimand to revocation of licence. I can't speculate about what the committee would do in these circumstances. I expect it would depend largely on the nature and circumstances in which the offence occurred. There could be circumstances where the sort of judgements exercised by the member were quite odious and unacceptable and it would attract a substantial penalty, and there could be circumstances where it would be viewed merely as almost an administrative oversight and might pose primarily a hassle factor—a very substantial hassle factor.

We know from our experience with the Highway Traffic Act, for example, that any suggestion that there will be enforcement of these requirements in a very serious way results in a lot of compulsive reporting. I think I told the public accounts committee when I was last here that after the recent judgement in the courts which held two physicians liable for failure to report a

man who had had seizures and subsequently went on to have a traffic accident and hurt another party very seriously—in fact, I think the accident resulted in the death of the other party—we had several physicians who insisted on reporting every patient they saw as potentially being unfit to drive a motor vehicle, for fear of being found liable under this legislation. I think you could reasonably expect, if this were to pass in its current form, a flurry of reports which might be quite monumental.

Mrs Sullivan: That discussion you have just had I think will be quite useful, particularly the illustration you've given from the Highway Traffic Act. I think the public accounts committee found that quite interesting when you presented it on an earlier occasion.

I wanted to turn to the Medical Review Committee, because we have not touched upon that at all in our discussions before the committee, and it's one of the few parts of the act that's not being changed. I wonder if you would explain to the committee and present any recommendations you have in terms of the resources you would require to expand the operations of the committee, expand the membership etc. The deputy minister, Mr Decter, in the estimates committee, I believe, but it may have been in public accounts, spoke very strongly about the role of the Medical Review Committee in dealing with a portion of fraud associated with professional fraud and counted on the MRC as being a major thrust in fraud control. I wonder if you could discuss some of the issues associated with the Medical Review Committee. None of that has been before this committee until now, and I suspect it probably won't be again, because you're the people who are most interested in it.

Dr Dixon: If I might start off that answer, the college becomes involved in medical review work, on referral by the general manager, of a physician's claims, a specific set of claims. The Medical Review Committee is obligated to review those claims, and there are certain criteria which the committee must use specified in the act.

The issue of fraud is not in the jurisdiction of the Medical Review Committee. If the general manager suspects that fraud has been committed, he refers this matter to other authorities to investigate and to prosecute as a criminal offence, so the matters which are referred to the Medical Review Committee have to do with issues about whether the correct billing codes were used, whether the services were medically necessary, things of that nature.

The committee currently is limited by statute in its size, and that is one of the problems in being able to

deal efficiently with the referrals from the general manager. We welcome the expansion capability under the amendment which would give the committee several panels to work with that could work simultaneously. This is all predicated on the fact that we have the additional resources.

Unfortunately, the government has not seen fit to adjust the rate paid to members who worked on the Medical Review Committee since 1988, and we are having increasing difficulty in recruiting physicians who are prepared to spend the amount of time required, because they are now working on a rate which is five or six years old and there's no prospect of any increase at present. But be that as it may, we would hope we'd be able to continue with the work of the committee if the increased size were provided with additional resources as well.

Dr Carlisle: I'll just add a couple of words to that, if I may, Mr Chair. Dr Dixon has explained it very well, but I sensed as I was watching that there might be a misapprehension of the answer. It should be clear that while the general manager does not ordinarily refer matters to the Medical Review Committee where fraud is suspected and that where fraud is suspected the matters are sent directly to the police, that is not to say that matters are not referred to the Medical Review Committee where fraud is ultimately discovered. If that is the case, then the matter is again, through the appropriate channels, turned over to the police. The college does not prosecute fraud; the crown attorney prosecutes fraud. But I did not wish it to be the impression that no matters of fraud are dealt with. It's not dealt with when it is apprehended that there is a fraud; often we discover that there has been a fraud in the course.

Mrs Sullivan: I understand that part of the process. What I wanted to establish clearly was that the expectation of the deputy for the expanded role of the Medical Review Committee was that it attempt to deal with the fraud issue, which he attempted to convince us of, but it is in fact going to have to deal with a backlog created by other circumstances.

Dr Carlisle: Yes.

The Chair: Thank you very much. We are, as they say, at about 6 of the clock. I want to thank all of you for coming before the committee today and for your presentation.

Members of the committee, as you know, we will not be sitting next Monday, so we will reconvene on Tuesday, October 26. I suppose you could say we will be dealing with the health of the nation on Monday. We stand adjourned.

The committee adjourned at 1755.

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Sullivan, Barbara (Halton Centre L) for Mr McGuinty
Wessenger, Paul (Simcoe Centre ND) for Ms Carter

Also taking part / Autres participants et participantes:

Ministry of Health:

Gilbert Sharpe, director, legal services
Wessenger, Paul, parliamentary assistant to the minister
Williams, Frank, deputy director, legal services

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Tuesday 26 October 1993

Journal des débats (Hansard)

Mardi 26 octobre 1993

**Standing committee on
social development**



**Comité permanent des
affaires sociales**

Expenditure Control Plan
Statute Law Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne le Plan
de contrôle des dépenses

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 26 October 1993

The committee met at 1534 in committee room 1.

EXPENDITURE CONTROL PLAN
STATUTE LAW AMENDMENT ACT, 1993
LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE
LE PLAN DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Vice-Chair (Mr Ron Eddy): Good afternoon, ladies and gentlemen. The standing committee on social development is now in session on Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act. Welcome.

ONTARIO ASSOCIATION OF OPTOMETRISTS

The Vice-Chair: Our first delegation is present. Would you please introduce yourself and proceed with your presentation.

Dr Mira Acs: Greetings. Let me start by introducing myself, my profession and the organization which I represent. I am Dr Mira Acs, the president of the Ontario Association of Optometrists. Here with me today is Barbara Wattie Fuller, the director of policy and government relations for the OAO.

Let me just take a moment to describe our association and my profession. The OAO is a voluntary membership association, representing more than 90% of the approximately 900 active licensed optometrists in Ontario. Optometry is an independent, self-regulating, primary health care profession, governed by the Health Disciplines Act and soon to be governed by the Regulated Health Professions Act.

Provincial legislation, including the Health Disciplines Act, the Health Insurance Act and the Health Care Accessibility Act, provides the framework for professional responsibilities and a high degree of accountability. Optometrists are required by regulation to provide care in accordance with the standards of practice published by the college. These published standards have been in place for 20 years and have been upheld by the courts and the Health Services Appeal Board.

Optometrists, who are university educated and clinically trained to examine, diagnose, treat and prevent conditions of the eye and visual system, provide a comprehensive and detailed diagnostic examination of the eye and the visual system, including, on average, 20 individual diagnostic procedures. This service is entirely covered by OHIP payments to optometrists.

Practising in over 80% of Ontario communities with a population of 1,500 or more, optometrists provide more than 70% of all primary eye and vision care services in Ontario. In more than 75% of communities where they practice, they are the only source of vision care. In the fiscal year 1991-92, optometrists provided 2.3 million OHIP-insured eye examination services.

As to current affairs, let me just say that we have found the last seven months to be ones of tremendous upheaval in government relations. From April 5, with Premier Rae's announcement of the social contract, to the present, the resources of the OAO and the attention of its members have been directed to attempting to understand the always complicated, seldom clear statements on the insurability of optometric services. Concurrent to discussions centred on reducing expenditures by 5% under the social contract, on April 23 the expenditure control plan was announced, in which the one-line item referring to optometry and ophthalmology was that only one eye examination per person per year would be allowed.

This was seemingly straightforward. However, an incidental reference in a document explaining ECP to physicians stated that billing criteria for optometrists would be tightened. The OAO immediately bombarded the Ministry of Health for clarification, and on May 13 we received written notification that the complete examination, or the V-401 code, would be restricted to one per person per year, and the follow-up examination, or the V-402 code, would be deinsured. We were further advised that the expenditure control plan measures would be negotiated with the then executive director of OHIP, Dr Robert MacMillan, and would be in addition to our social contract cutbacks.

In addition to attendance at what were seemingly endless social contract meetings, the OAO held meetings with OHIP to try to get further clarification of the intent of these measures. We made it clear that the expenditure control measure that would deinsure our follow-up code was completely unacceptable. We spoke to many of you about these concerns.

On August 25, following our signing a local agreement under the social contract, which dropped and froze optometric expenditures at the 1991-92 levels, we were told by Dr MacMillan that our services would remain the same, that the social contract encompassed or replaced ECP as far as optometry was concerned. Needless to say, accurate, up-to-the-minute reporting to our members has been a challenge.

Really, that brings me to why I am here today. We have a few comments and one recommendation to make. But with your indulgence, we would appreciate use of this time to seek clarification from the ministry representatives on one or two points. My comments on the bill relate to amendments provided by the clerk and are therefore in no particular order as they relate to the bill itself.

With respect to the health cards section, subsection 2(2.1) of the bill amending section 11.1 of the Health Insurance Act, we see that under subsection (2), taking possession of a card, the amendment to "prescribed person" from "physician." We assume that the intent is to include optometrists as prescribed persons. We would appreciate clarification of this as well as what "voluntarily" means in an operational context.

1540

Further amendments to sections 43.1 and 43.2 of the Health Insurance Act re duty to report again refer to prescribed persons. We may be misunderstanding the most recently received amendments, but it seems that the duty to report now rests on determinations of residency. For the sake of our members' ability to comply should this affect them, a clarification of what will be required of them would be appreciated.

With respect to third-party services, this entire section is a new aspect of Bill 50 and we welcome it. One of the challenges in recent months for optometrists has been trying to determine when a service is a third-party service and then explaining that to the patient who is reluctant to pay for it. It simply can't be made clear enough. We are particularly pleased to see further amplification of what constitutes a requirement or request for a service.

This brings me to our recommendation to amend under subsection 36.3(5), determining whether excessive. We respectfully request adding reference to the OAO-suggested schedule of fees or, alternatively, striking the reference to the OMA's guidelines on fees and inserting a reference to the "pertinent profession's" schedule of fees.

In conclusion, we would like to thank this committee for the opportunity to be here and to have our views heard. We are unable to comment in any further detail because we have had these newer amendments in our possession for less than a week. The flavour and the character, if you will, of Bill 50 has changed considerably from when we first looked at it.

The two sections we have spoken to today dealing with health cards and third-party services will have a definite impact on our members and the services they provide. What that impact will be is difficult to assess at this stage because further clarification must come from you and the Ministry of Health as to the intent of these measures, how the measures will be implemented and ultimately monitored.

Today we would appreciate any further clarification you can give us, and for the future we would like to say that we are willing and eager to participate in this process. We ask that you consult with us on issues that affect the delivery of eye and vision care services in this province and we in return offer our sincere desire to help serve the people of this province.

The Vice-Chair: Thank you for your presentation. Are there questions?

Mr Stephen Owens (Scarborough Centre): Dr Acs, thank you very much for your presentation. You were quite right in terms of sending representatives out to MPPs' offices with respect to your concern. I received a

visit myself from a very well-versed group of my constituents.

In terms of the issue with respect to health cards, could you tell me a little more about that? I'm not sure I quite get it in terms of your concern and the amendment you would like to see.

Dr Acs: The first concern is the change from "physician" to "prescribed person." Is that going to include all health care providers who bill OHIP? Is that the intention? Is it going to include dentists, optometrists and chiropractors in addition to the physicians? That was our first concern.

The second concern was a more general concern in terms of what it means in terms of voluntarily surrendering a health card, that then it would be the onus on the practitioner to keep and return to the ministry. Those were the two concerns regarding that, unless Barbara has a different concern there.

Mr Owens: Then a question to the parliamentary assistant, Chair: In terms of the withdrawal of the billing code V-402 and its having been deinsured, can you tell me why that code was delisted, what the rationale was, and is there any thought to putting it back on the fee for service?

Dr Acs: It wasn't delisted. That was the intention under the ECP, but it really was something that was removed.

Mr Jim Wilson (Simcoe West): It was a threat.

Dr Acs: As Mr Wilson said, it was a threat.

Mr Paul Wessenger (Simcoe Centre): I'd just like to confirm that the presenter is correct that it was not deinsured.

Mrs Barbara Sullivan (Halton Centre): I have a number of questions. I appreciate that you've come today, given very short notice and an almost aberrational process with respect to distribution of potential amendments to this bill.

I'm interested, first of all, in the process you described that the optometrists went through as the original bill was placed on the table. I think it shows an almost unconscionable lack of consultation with health care professionals; indeed, that people's health care services across the province would have been affected given the status of delivery your profession provides.

I share your concern about who prescribed persons are. We have asked for the information from the parliamentary assistant and it was indicated to us that the list of prescribed persons, not only for taking possession of a card but for having a duty to report, would be brought forward to the committee. I had hoped we would have that information before committee started today.

Additionally, we were to have a report on which third-party services were affected and what the legal requirements are now with respect to institutions that require certain kinds of health assessments and so on, whether they be food handlers or boards of education and so on, and it appears we do not have that information.

Chair, could you clarify whether that information is available now?

The Vice-Chair: Mr Wessenger, would you care to respond to this?

Mr Wessenger: I don't believe we have any list of prescribed persons at this time. If I could clarify, I think it's fair to say that the intent of the legislation is to expand it to health practitioners across the board, but I think it's also fair to say that there would need to be some consultation done with the various groups, and it might be quite possible that the matter would be phased in with respect to particular health practitioners. In other words, we might work it with one group to start with before we extended it to a second one. The intention is to bring it into all, yes, but the timing could be a phased-in situation.

Mrs Sullivan: But I think this points out the exact problem. When the Ontario Medical Association and the College of Physicians and Surgeons of Ontario were here last week, the suggestion was clearly made that it wouldn't necessarily be the professional who had to take possession of the card, that it may well be a secretary, an assistant, another person who provides some service associated with the professional responsibility, or in another venue it could be an unregulated health care practitioner. Nobody knows who has what will be these legislated responsibilities brought forward by regulation. You can understand that everyone is anxious to have that information. Frankly, if we get it and you have more questions, I think you should ask for another appointment with the committee.

The next question I wanted to ask is, given the drafting of the proposed amendment, how would you, as an association, advise the members of your association to identify whether a person was a resident of Ontario or not? What signals would you look for?

Dr Acs: At this point I must say that I have no clear answer for you because I really don't know. I haven't given it much thought in terms of the operational contact you would have with patients in your office. I really don't know what kind of information we could give our members. At this point, I don't think we could give them any information, frankly, because I don't think we know. I don't think we could.

1550

Mrs Sullivan: You're in the same position as other professionals who have appeared before us so far.

I have one more question. Just a second and let me get my mind together here. Under the expenditure control plan, the Ministry of Health had prepared a list of services to be delisted. That was the list that was talked about with respect to removing the code and lowering the fees for the other code. As a result of the OMA agreement, it appears that there is a new process in place. The Ministry of Health will put 10 services on a list, the medical association will put 10 services on a list, they will sit across the table and they will bargain about what comes out of OHIP. There will be no reference to other professions or to patients. What do you think of that process?

Dr Acs: I think it's a terrible process. If, as happened before, as recently as in the last four months, along with

measures that are put there to implement restrictions on OHIP billing by physicians, it's also, "By the way, we're going to tighten billing criteria by optometrists," and we are affected by something that is decided upon by two groups where we're not present, where we're not consulted, then I think it's a very unfair process. If members around this table felt they were bombarded by members of my profession before, watch out, folks. We're coming back again in full force. It's unconscionable. We will not stand for it.

Mr Wessenger: If I may clarify with respect to that, there is nothing in Bill 50, by the way, that relates to delisting of services. There was in the original bill, but that has been removed. The process that has been discussed, which of course is not related to this bill—but the delisting process is related only to the delisting of physician services. That process of the panel is not in any way related to the delisting of services for optometrists or other health practitioners.

Mrs Sullivan: I want to make it very clear that there is no guarantee that that is what the process is going to be or what is envisioned. Bill 50 is what is before this committee, despite the fact that the government has placed before us some conflicting and bizarre amendments and some amendments that we think are useful.

But we still have, in terms of this committee, to deal with the original bill plus the package of amendments that has come forward and a process that is continuing at this very moment behind closed doors. No one has access to either list, the doctors' list or the ministry's list. I've asked for it in the House. It's not been provided, and who knows what's being discussed.

Mr Jim Wilson: Thank you, Dr Acs, for your very fine presentation. To follow on what Mrs Sullivan is getting at, so that the public is aware, obviously the study in this committee of Bill 50 is the only opportunity that we as legislators have to examine the government-OMA agreement and the delistings contained therein, so for the parliamentary assistant to try and separate the issues is stretching reality.

Because you didn't get your question answered by the parliamentary assistant, and perhaps as a note to the PA, when presenters ask specific questions of you, perhaps it would be easier if, before going the rounds in the questions, you could answer them.

There was a specific question with respect to subsection 36.3(5) and third-party billing. In determining whether excessive amounts have been charged, there's only reference to the OMA. It's a good point brought up by Dr Acs that if "prescribed persons" in the rest of the act is to deal with all of the other regulated health professions that are currently billing OHIP, would you not need a change or some flexibility with respect to the wording in section 5?

Mr Wessenger: I will refer this to legal counsel to deal with the question of whether the bill relates to—I don't have my brief here. I'll ask legal counsel to clarify that.

Mr Frank Williams: I'm sorry; I think I was out of the room when the question was asked. Perhaps you

could go through it again. I'm not sure what section. Could you repeat the section?

Dr Acs: I was referring to subsection 36.3(5), dealing with "determining whether excessive." We respectfully request adding reference to the OAO's suggested schedule of fees or, alternatively, striking the reference to the OMA's guideline on fees and inserting a reference to the pertinent profession's schedule of fees.

Mr Jim Wilson: The witness has correctly pointed out that the current wording restricts that section to simply a referral to the OMA. If all other professions are to be included, I think a very good point's been made.

Mr Wessinger: We'll certainly take it under consideration.

The Vice-Chair: Any other questions? None? Thank you very much for your presentation, Dr Acs.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Vice-Chair: The next presentation will be by the Service Employees International Union. Come forward, please, and introduce yourself. You can proceed with your presentation; I believe we have copies.

Ms Judi Christou: Mr Chair, honourable members, my name is Judi Christou. I'm assistant to the president of Local 204 for Service Employees International Union. With me is Marcelle Goldenberg, who is the director of research.

We welcome this opportunity to present our views to the standing committee on social development concerning Bill 50. For those of you who aren't familiar with our organization, we represent approximately 45,000 workers across the province. The majority of our members are health care workers working in service and nursing positions. All of these employees are covered by the Social Contract Act and the sectoral framework agreement for the broader health sector and the Hospital Labour Disputes Arbitration Act.

We appear before you today because we are greatly concerned about section 1 of the act. We interpret this legislation as giving the government the right to suspend our collective agreements or even a grievance made under the Social Contract Act. Originally, we understood that Bill 50 was a fail-safe mechanism that was to apply to the province's doctors, as they were excluded from the Social Contract Act. Indeed, the letter accompanying the bill from the Minister of Health supports that view.

Subsequently, the Ontario Medical Association reached an agreement with the government which specifically excludes them from section 1. It would be safe to assume, therefore, that this section applies to all other health care workers except doctors. But we too came to a social contract agreement with the government in accordance with the Social Contract Act, so we would like to know if section 1 applies to us, and if so, why?

The proposed amendment to the bill does little to clarify the situation. For example, how do you define "agreement"? Are you referring to collective agreements or agreements made pursuant to the Social Contract Act? This legislation simply speaks of an obligation to pay money and to engage in related negotiations. Indeed, this could be interpreted by some as applying to all items in

a collective agreement, making it totally unenforceable.

Similarly, some health care employers could claim that the health sector framework agreement is not an agreement, because they didn't sign it and it had to be designated. If they were found to be correct, the amendment would not apply and all health care workers covered by this agreement would again fall under section 1. We have been assured by some government officials that this section does not apply to us, but we respectfully submit that the legislation is not clear enough and leaves itself open to interpretation.

This union therefore suggests that this legislation is unacceptable in its present form and that section 1 should be completely withdrawn. In the alternative, we would request that a further amendment be added which specifically says that the health sectoral agreement excludes health care workers from section 1.

The other section we would like to address is section 3, which requires that arbitrators and nominees under the Hospital Labour Disputes Arbitration Act be paid for by the respective parties instead of by the government, which is now the practice.

I'd like briefly to give you some background to this issue. In 1963, SEIU had a strike at Trenton Memorial Hospital, as hospital workers were then governed by the Labour Relations Act. The report of the Bennett commission, which was established in response to this dispute, recommended that compulsory arbitration be invoked at the discretion of the Lieutenant Governor in Council and that strikes and lockouts be prohibited only where patient care was seriously threatened or one party was bargaining in bad faith.

Instead of acting on these moderate proposals, the government completely abolished the right to strike and imposed compulsory arbitration on unions and employers in the sector, the theory being that these employees were essential and that the cost of a strike, either in human or monetary terms, far outweighed the benefits of maintaining free collective bargaining. If the ultimate goal of interest arbitration is to benefit the public good through no disruption of service, then we maintain that it is appropriate the government should pay the cost.

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Another reason we object to paying for the process is because the system simply doesn't work very well. There have been few amendments to the act since it was introduced some 28 years ago in spite of constant requests through the years by union and employer groups. The Hospital Inquiry Commission of 1974, for example, recommended sweeping changes to the act. In 1980 a labour-management committee in the hospital industry was formed specifically to deal with the inadequacies of the HLDA. The group was able to agree on a number of proposed changes to the act, and although these changes were presented to various ministers of Labour over the next 10 years, no amendments have been made.

We've listed some examples of suggested amendments that the unions and employers were able to agree to at that time, but again these tend to change depending on the circumstances and the climate of the day.

We question, though, why the only amendment we are facing today is that we should pay for the process, and not that the whole process should be re-examined.

One of the arguments put forward by the government for this change is that cost-sharing for interest arbitration is quite common in the public sector. We acknowledge that this is the case, but in most of these instances, the parties have more control and choice in the process. For example, teachers have the right to strike, but if the parties opt for interest arbitration, they share the cost, similarly with community college employees and, soon, employees who fall under CECBA.

In terms of control of the process, neither the unions nor the employers have any control over who's appointed as an interest arbitrator under HLDAA. This is in direct contrast to the rights arbitration process, where the arbitrators are screened by a tripartite committee. Therefore, we submit we should not have to pay for a process that has been imposed on us and that gives us no choice of dispute resolution technique or control over who is to hear our cases.

Finally, employers are the ones who benefit monetarily from the process itself, because unless a contract is settled prior to the expiry date, the settlement is never made fully retroactive. And one of the complaints of the system that is often made concerns the delays; the employer therefore collects the interest on the moneys owing as well as having the advantage of not having to pay benefits for the full term of the agreement. To ask them to pay the cost of this process is probably a small fraction of the money they save.

In addition, the Ontario Hospital Association in particular receives public funding and one of its primary functions is to represent hospitals in labour relations. In contrast, unions receive no such funding, surviving on the dues of their members which are based on wages which are for ever being rolled back or frozen by government dictate. In the interests of equity, we feel it is appropriate that the government continue to pay for this process.

Respectfully submitted by Service Employees International Union.

The Vice-Chair: Thank you for your presentation. You have some questions. Does the parliamentary assistant wish to respond at this time?

Mr Wessinger: Yes. I believe there was one question asked by the group, and I'll ask legal counsel to respond; that is, the question of section 1 and whether it would apply to collective agreements.

Mr Williams: I'll reiterate the comments I made outside this committee that it was never our intention that agreements reached either through a sectoral framework or otherwise would be overridden by section 1, especially now with the amendments that we're planning to bring in. I'll bring up the matter with legislative counsel, and we'll discuss whether or not in fact it goes far enough. We're prepared to look into amending it, if necessary.

Mr Owens: Judy, thank you very much for your presentation. As a former hospital worker, albeit a CUPE local president, I'm quite familiar with some of the points you make, especially with respect to not having the right

to strike and binding arbitration. Can you tell the committee how many locals you have that are involved in central bargaining with the Ontario Hospital Association?

Ms Marcelle Goldenberg: We have at least seven locals, covering almost 60 hospitals, involved in central bargaining in the hospitals.

Mr Owens: About how many employees would that be?

Ms Goldenberg: That covers approximately 28,000 members.

Mr Owens: Would you characterize the central bargaining process as one that moves along quickly, that is a pleasure to take part in, that is cost-effective for the taxpayers?

Ms Goldenberg: No.

Mr Owens: How would you characterize that bargaining process?

Ms Goldenberg: Extremely painful and time-consuming, non-productive. We're typically engaged in bargaining with the Ontario Hospital Association on behalf of our members, and there's absolutely no incentive for meaningful bargaining to take place. The recourse is usually to interest arbitration, and I believe that because of that structure we have not concluded a voluntary settlement, for example, in our central bargaining for over 10 years and we've resorted to interest arbitration each time.

Mr Owens: What's the average length of time that a set of contract negotiations, notwithstanding that you still do local issues, would take place for your workers?

Ms Goldenberg: Typically, it will take us any time from about eight months to a year to get to interest arbitration, to have a hearing, and after that we have absolutely no control, once the case has been heard, over how long it would take for an arbitrator to render a decision. And it could go anywhere from three months to a year, as well, before—

Mr Owens: And after the arbitrator has rendered a decision, of course your employer implements the agreement immediately with respect to wage increases and vacation entitlements?

Ms Goldenberg: No, there's a time period they have for implementing the retroactive clauses. Typically, we only are able to get issues like wages retroactive, but not any benefit improvements or any other clauses. Job security clauses are not retroactive, so we're limited to just wages.

Mr Owens: Have you calculated how much more this is going to cost your workers in terms of your duty to pay under this piece of legislation?

Ms Goldenberg: Not only do we have the central bargaining process to undertake but we also have individual bargaining. Some hospitals refuse to participate in central bargaining, and therefore we may have others. We typically would have about 150 interest arbitrations a year for SEIU alone. No, we haven't calculated what the cost would be.

Mr Owens: And of course the employer never disciplines any of your workers and you never have to go

to grievance arbitration either, I would imagine.

Ms Goldenberg: We have many more cases of rights arbitrations than we would care to have, but—

Mr Owens: What would be the average hourly wage your workers would receive, and in terms of the male-female breakdown of your bargaining units?

Ms Goldenberg: Our bargaining units typically in the health care sector are about 85% women. The average hourly rate is estimated, over our nursing homes and our hospital sector, to be approximately \$14 an hour at the high end, probably, between \$13 and \$14.

The Vice-Chair: Are you finished?

Mr Owens: I have many more questions, but I'll yield.

The Vice-Chair: Mr J. Wilson.

Mr Jim Wilson: Thank you, Mr R. Eddy. I want to thank the presenters for raising a very good point about section 1 which hasn't been raised earlier in our discussions. Could I ask for a clarification from legal counsel on precisely what the government's intent there is? It seems to me you have written this act in such a way as to give the government some rather sweeping powers. I suspect somewhat of a hidden agenda and I want to hear, for the record, precisely what the intent of the section is.

Mr Wessinger: Which section?

Mr Jim Wilson: Section 1, dealing with obligations and designation.

Mr Wessinger: I think it's quite clear that it's to cover the agreement with the OMA and the other agreements, such as the one we heard with the optometrists today, with the health practitioners.

Mr Jim Wilson: Then why doesn't it say that in relatively plain legal language? It seems to me it covers everyone in the health care field.

Mrs Sullivan: That's right. It says "health sector."

Mr Jim Wilson: It uses very broad language in every sentence.

Mr Wessinger: The only suggestion I can make is that, as you may well know, legislation is drafted by legislative counsel and they do it in what they think is the best way to achieve the purposes. If there's an ambiguity here, I think it's been clear that we'll ask legislative counsel to look at the problem with respect to any such ambiguity and see if we can clarify it.

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Mr Jim Wilson: With respect, your answer's as ambiguous as the wording in the act. Could you provide us with a list of those groups directly affected by this section of the act?

Mr Wessinger: I think we could probably ask. Do we have someone here who can indicate the number? I think the information was given before by Dr LeBlanc, but I wonder if anyone can give an indication of the agreements that are now subject to this section.

Mr Williams: In essence, other than groups we haven't reached agreement with, any agreements that were reached prior to June 14 where we've reached

subsequent agreements, they no longer would be covered. The section was intended to cover groups like the OMA and other practitioners we've entered into contracts with at various times.

To start listing them in the statute is not normally the way—when I was a legislative counsel, that isn't the way we drafted legislation. It was intended to be a broad general section, and the purpose of the amendments is to make it clear that with any agreements we've entered into after June 14, we will honour those agreements. That's the intention of the amendment, to make sure that we in fact honour those agreements.

Mr Jim Wilson: Will we see some amendments come forward to help clarify this section?

Mr Wessinger: I think what we've indicated is that if there is a legal ambiguity, and that'll be determined by legal counsel, whether there's an ambiguity, and if there's a need, then I would assume the changes would be made, if that's the case.

Mrs Yvonne O'Neill (Ottawa-Rideau): Mr Chairman, may I ask a supplementary on that one? This is getting very confusing. Are you suggesting that you're going to provide us with a list of those agreements you've reached beyond June 14 so we'd know what isn't covered here?

Mr Williams: The only commitment that I've suggested is that we will look into the situation of groups that have been designated by the Minister of Finance under various sectoral agreements to ensure that the wording we have covers those types of situations. We intended that the type of agreement that the presenter has mentioned would be covered by the amendments to the bill.

That's the commitment I gave, that I would speak to legislative counsel to ensure that the wording we have is sufficient. If it is not, we'll amend it accordingly.

Mrs O'Neill: So these are the agreements that were reached then between June 14 and the presentation of Bill 50?

Mr Wessinger: I might indicate that there could be agreements entered into in the future which will be covered by this bill.

Mr Williams: Yes, that's correct.

Mr Wessinger: This covers any agreement entered into by any, as I understand it, health practitioner who would be under the provisions of OHIP payments.

Mr Randy R. Hope (Chatham-Kent): You talked about the bargaining aspect and the number of workers you represent. How many collective agreements does that represent? Also, what is your rating aspect? How many agreements do you get in place without going to binding arbitration or to arbitration? I need to know your score sheet.

Ms Goldenberg: We would probably have in the health sector over 1,000 individual agreements. We do have central bargaining for our hospital group, which will take care of up to 60 of our hospitals; we have a total of about 95 hospitals, so there are 35. In an individual hospital, we may have an office and clerical group, a

service group and a registered technologists group as well, so it's very fragmented in terms of the number of bargaining units and, subsequently, collective agreements per facility. Then we have approximately 200 nursing homes, homes for the aged and charitable homes for the aged.

Mr Hope: How many settled before the termination date of the contract and how many do you have to go to an arbitrator to get these things ruled on?

Ms Goldenberg: Very, very rarely do we have voluntary settlements in this area. Therefore, we proceed to arbitration on a large number of our cases and it may be that prior to actually getting to the interest arbitration, we may have a pattern that's established. That's never a guarantee we're able to apply to the rest of the sector.

Mr Hope: So it might be, I guess, safe to say that you ratify 10% of your agreements before termination date and 90% you have to take to arbitrator.

Ms Goldenberg: None of them before termination date.

Mr Hope: I mean getting an agreement without having to go to an arbitrator.

Ms Goldenberg: Perhaps, though it would be a high number—I think 10%, but close.

Mrs Sullivan: I want to move back to the question with respect to section 1 and what is an agreement. I think there's a fundamental discrepancy between the original subsections 1(1), 1(2), 1(3) and the amendments put forward to 1(2.1).

The first and the original bill wording describes designated obligations of the crown in right of Ontario, ministers of the crown, the government of Ontario, employers in the health sector etc. The amendments speak about agreements. There's no definition of "agreement" in the bill.

One wonders whether those agreements are limited to those under the social contract and what occurs when there has not been an agreement and fail-safe has been imposed, such as is the case with the hospitals. Your union represents some 27,000 members who work in hospitals, by example. Is an agreement a contractual relationship or is it a collective agreement? What is in fact meant in the amendments as proposed?

Mr Wessenger: I'll ask counsel to clarify what "agreement" means. I would think that an agreement, if it isn't defined, would have to obviously be an agreement that is signed by both parties, but I'll ask counsel to confirm that.

Mr Williams: I guess maybe if I give you some background for the original section and the background for why we've amended it, that might explain a little bit of the conundrum you're having.

"Agreement," I would think, would have its normal meaning in law. "Agreement" has a meaning in law and there are all kinds of statutes that use the word "agreement" and don't define it, and it has a meaning; the case law certainly would support what the normal meaning of "agreement" is.

First of all, I think it should be explained that if you

look at subsection 1(3), the override doesn't apply unless an agreement is actually designated by cabinet. Unless there is a designation, there is no override under section 1. That's the first thing.

The second thing to keep in mind is that the designation expires at the end of the social contract period, namely, April 1, 1996. The reason we amended the bill, or are proposing to amend the bill, was that there were several groups that came to us and said, "What if we enter into an agreement under the Social Contract Act"—not necessarily under social contract—"or in any other context that we enter into agreement with you, will we be penalized because of this section?"

The answer of course is no and the amendment is to make it clear that with any agreements we enter into with parties, we will honour those agreements. That's the purpose for the amendment. So "agreement" was intended to have its normal legal meaning and there's no hidden agenda here and there's no hidden meaning in it.

Again, I reiterate, if we discuss with legislative counsel and they're of the opinion that "agreement" would not cover the type of situation that's been brought up this afternoon, we will seek to correct that.

Mrs Sullivan: You're saying that if the agreement has been imposed by the Minister of Finance rather than signed by both parties, there will be a further amendment coming to the legislation?

Mr Williams: If that's thought to be necessary.

Mrs Sullivan: I see. Okay, well, you might want to come back too. I wanted to ask if you had prepared an estimate on what the costs to your union, to the SEIU, would be for the government not to take on the arbitration costs under the labour disputes act.

Ms Christou: No, we haven't done a costing of it. We know that we go to arbitration, as my colleague said, in almost 90% of our cases, so it would be substantial.

Mrs Sullivan: Would the ministry have that kind of estimate?

Mr Wessenger: No, I don't think there is.

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Mrs Sullivan: If the ministry paid the bills in the past, could they review those bills and come forward at least with some data as to what the arbitration costs have been under the hospital labour disputes act?

Mr Wessenger: We have someone here from the Ministry of Labour. I don't know whether she can give any information in that regard or not, about the costs of arbitration.

The Vice-Chair: Please state your name and position.

Ms Catherine Laurier: Catherine Laurier, policy adviser, Ministry of Labour.

I don't have any information that shows a breakdown union by union, but there's a rough estimate that the annual cost to government for interest arbitrations that are held is in the neighbourhood of \$450,000 a year.

Mrs Sullivan: Under this particular bill or under all arbitrations?

Ms Laurier: Just under the hospital bill.

Mrs Sullivan: Under the hospital labour disputes. Okay, thanks.

The Vice-Chair: Any further questions? None? Thank you very much for your presentation—sorry, Mr Owens.

Mr Owens: I was just going to ask the parliamentary assistant and perhaps the Ministry of Labour person, if in fact the costs are going to be borne by the parties, what is the ministry prepared to do to ensure that expeditious bargaining takes place?

Mr Wessinger: I don't know whether it's a fair question to ask the representative from the Ministry of Labour.

If I might answer initially, the purpose of the section, besides saving the cost of the arbitration to the government of course, is to encourage the parties to negotiate on the basis that this will be an incentive for their negotiation. I don't know whether there's anything that somebody from the Ministry of Labour would like to add to that or not.

Ms Laurier: I can simply note that under the sectoral agreements, there have been certain commitments made or agreements made among the parties to review labour relations in the hospital sector in arbitration and that might provide an opening for unions to put forward some concrete proposals around reforming the interest arbitration system.

Mr Owens: The OHA receiving public money—I'm just wondering if there will be one eye kept on the OHA in terms of its usage of funds. This is in my view a bit of a bizarre process, that when you have one publicly funded body bearing the cost—I mean, it seems like money is just floating eternally and that if there is no encouragement from the ministry, things will just continue as they have in the past.

Mr Wessinger: I can certainly take that under consideration.

The Vice-Chair: Any further questions? Do you wish to make a statement?

Ms Goldenberg: On the last comment that was made, I just wish to note that under a recent freedom of information request, the information we received was that the OHA receives approximately \$2.5 million for the human resources funding, specifically allocated to that department to oversee collective bargaining and other human resources matters.

Mrs Sullivan: Could I have clarification of where the money comes from to the OHA and for what purposes? I think it would be useful to have that on the table. Does it come from the Ministry of Health? Does it come from the Ministry of Labour? Does the Ministry of Labour provide any grants in this area?

Ms Laurier: Not as far as I know.

Mrs Sullivan: No. Presumably it's all Health money, and where it goes and how it's used—

Mr Wessinger: I'm certain that information could be made available. I would ask that staff take a note of it.

The Vice-Chair: Anything further? If not, thank you for your presentation. We appreciate your coming before the committee.

SUDBURY AND DISTRICT MEDICAL SOCIETY

The Vice-Chair: The next presenter is the Sudbury and District Medical Society, Dr Hollingsworth. Please give your name and position for Hansard and proceed with your presentation.

Dr Jack Hollingsworth: My name is Dr Jack Hollingsworth. I'm president of the Sudbury and District Medical Society and I'm here representing physicians from Sudbury. I have what I hope will be a brief presentation for this committee. I don't have a written brief; I merely have handwritten notes which I don't think would be really legible for the committee unless they're brought to a pharmacist.

I would like to make an opening statement to the NDP members of this committee. I see Mr Owens over there, a familiar face.

Mr Owens: We seem to have a continuing relationship.

Dr Hollingsworth: That's right.

Mr Owens: I hope it's as pleasant for you as it is for me.

Dr Hollingsworth: I would ask that you listen very carefully to what I have to say, and perhaps when you're in caucus, some of the matters that I'm going to talk about might be discussed, because we have a really hard time seeing our local MPPs in Sudbury. When we do see them, their eyes seem to glaze over when we start mentioning some of the problems with health care that are occurring at the moment.

I would ask for your help and I would ask for any previous feelings you've had towards the doctors from Sudbury to be put aside, and perhaps that you would make these representations to the people from Sudbury and also to the Minister of Health as well perhaps.

I'd like to move on now to look at some of the amendments to this act. Subsection 2(2.1), section 11.1 of the Health Insurance Act, concerning physicians returning health cards: I was fortunate to have an opportunity to return a health card previously. I had a patient who died in October 1990 who unfortunately received a health card three years later, despite the fact that a death certificate was filled in and this person was obviously dead.

This health card entitled him to free medical care and free drugs. I forwarded this health card to Mr Wilson who did in fact return it to the Minister of Health. I think it shows how difficult central planning can be, because not only was the government not aware that he had died, but in fact it did actually give him a new card, even though everything was done appropriately.

Another example of the failure of central planning is the difficulty the government has in deciding which doctors are alive or dead and which doctors are actually practising. We've had physicians listed who are supposed to be in active practice who have in fact been dead for eight years. An example is Dr A. Greco from Timmins. We've had many doctors in this situation.

We were told by the Ministry of Health, and Mr Wessinger may be privy to this information, that we had about 124 GPs in Sudbury, and we said, "No, we've got 84." When we actually got the ministry to compare the

data, it had a lot of doctors on its list who were not actually there.

I'd like to move on to subsection 2(3.1), section 19.1 of the Health Insurance Act, which relates to the minister giving exemptions for doctors to become eligible under the Health Insurance Act. Previously, the college has had the function of deciding exemptions for doctors, and in the past doctors were felt to be self-regulating. If you take this power from the college, the whole question of self-regulation is in doubt altogether. I would advise this amendment be considered very carefully.

Subsection 2(3.2), which relates to the Health Insurance Act, sections 36.1 to 36.4: Third-party services would be liable to be paid for by the third party. I think this is a good idea in general. I think we've had a lot of services being requested in the past from people, for example, who are going to work in day care or going to drive trucks, and employers want all sorts of forms filled out which are I think inappropriate. Perhaps if they have to bear the brunt of the cost, this may help. If this is the intent of this amendment, I would agree with that.

The next section is section 43.1 of the Health Insurance Act, reporting incidents to the general manager. The reporting of incidents to the general manager, the idea that doctors are going to be reporting their patients, is going to become quite difficult for doctors, I think. It's unlikely that doctors are going to be the police force that you want to make your central planning work. However, even if they do, the client or the patient can for 39 or 40 cents send a letter to the college saying that this doctor did something inappropriate, and we have a long investigation ahead of us.

This is one of the problems we practitioners face when we're out there working in the field. Even though one of the sections of your amendments, 43.3, states that there will be protection of the reporter from legal liability, we still have a problem with the college, and we can get into a lot of hot water with the college.

1630

I'd like to move on to discuss some aspects of the act itself, particularly concerning audits. Mr Owens, you probably have some idea about audits. You've been around here a long time. I've met you before. You're probably familiar with short bolting in the mines. We've had the situation in Sudbury where we had people who were accused of short bolting. They would pull out the bolts and measure them, and if you put in too short a bolt, that was a way of getting a big bonus without doing the work. That's one way of auditing. Another idea is that people with their cars, you should check their brakes; you stop them.

Audits are a good idea, I'm sure you'll agree. However, there are times when audits can become harassment. An example is, if I went out and stopped every car on the street, I would stop all the traffic; it would be difficult for people to get around.

I would caution an extension of the audit system to more than double what it is. The previous executive director of OHIP, Dr MacMillan, had made a statement that 75% of the people who were audited under their

auspices were in fact found to have a problem when they were referred to the college, to the MRC, to the review committee. I would submit that if you extend audits too far, your efficiency will drop quite a lot. I would ask that you consider audits carefully before this act is implemented.

The next point I want to discuss is the expenditure control plan. As you know, the Ontario Hospital Association did not sign the expenditure control plan and therefore in the hospitals we saw fail-safe provisions being introduced. We see a situation in Princess Margaret Hospital where they can no longer take care of their patients. They're in fact coming to Sudbury for radiotherapy, I understand, and there may well be an exemption in this situation. The question is, how many exemptions are you going to have to make because of this kind of legislation?

Another example of where the whole idea of a global budget and a centrally planned system falls down a bit is the situation of Wendy Majkut, who was a lady from Hamilton who needed a bone-marrow transplant. Her major misfortune was that her disease occurred late in the year and she had to have a transplant when the budget had run out. In fact funds were made available because of publicity. My question is, if this expenditure control plan is so great, how are you going to take care of people like her? You're always going to have exceptions.

Examples of underservicing and shortages and rationing have occurred in Sudbury recently. We've had children flown down to Toronto regularly to have their bones set. Oscar Bernier was a 13-year-old, developmentally handicapped child who came down with his leg very badly broken, had a very painful trip and had to wait 36 hours to get a compound fracture fixed. The normal delay should be less than six hours. Curtis Lapointe fell off some monkey bars in his school and waited, again overnight, to get his elbow fracture set. These are situations occurring on a daily basis in Sudbury. Every day two or three people are sent away for tendon repairs or for other services that we can't provide for them now.

I'd like to draw your attention to the effect of the expenditure control plan on services in the north. We recently had a meeting of our District 9 for the OMA, which is the northern Ontario section of the OMA. A Dr Slater, who's a family doctor, pointed out many of the changes that are happening because of your legislation and policies. This is what he states, and he's not a political person at all; he's never made any statements before. "Services continue to deteriorate and have taken a nose dive over the last two years. I've been in northern Ontario 32 years, and I've never seen such dramatic changes."

He quoted Harris, where two doctors have retired. Kapuskasing has gone from seven doctors to two. Smooth Rock Falls, three doctors gone down to one. Cochrane has lost a lot of doctors. A GP, an anaesthetist and an obstetrician have departed, leaving five doctors, no obstetrics available, GPs being forced to go back into obstetrics. Iroquois Falls is now closed, patients going to Timmins. Englehart, one doctor.

This is just a disaster all across the north. I think the doctors are very concerned about services in the north, and we continue to try and lobby the MPPs in the area, with limited effect because of their lack of availability.

An example of this is that there were two meetings recently concerning health in the north. For one, Mrs Grier went to Sudbury and met with the district health council but did not meet with any doctors that I know of who are involved in care in Sudbury. The second meeting was to do with the memorandum of agreement between the OMA and the government. That meeting was moved at the request of Mr Laughren, I was told, to Timmins, and one wonders, were we kept out in the dark on purpose?

I caution you of the effects of some of these expenditure control plan policies on certain groups. You'll see real shortages occur, for example, in anaesthetics. If you have your Bob Rae days—you're closing 12 days a year this year and it may be 24 next year because you're still short billions in taxes—you're going to reduce services, you're going to lengthen waiting lists and you're going to have a major problem in certain areas in the north.

General surgeons are being affected. One example is orthopaedic surgery. If a patient comes into my office tomorrow who needs a hip replacement, it will take six months to a year to get it. In Toronto, they may get it within four to six weeks.

I would point out to you in closing that the north has been underserved in the past, and these policies ensure it will remain for ever underserved. We have a hard billing cap now. We have a 5% clawback for utilization, which means that doctors can only do 95% of the work they did last year. It's become harder for us to recruit and retain doctors.

I would ask you a question directly, Mr Owens. I'd like you to respond to this. We have a situation in Sudbury, just one example, anaesthetists in Sudbury Memorial Hospital doing heart surgery, assisting there, trying to put the patients to sleep. They've lost one doctor; he went to Sheboygan, Michigan. They've gone from five to four. They're told they can do only 95% of the work done last year. How do they provide the service 25% more when they can't recruit another doctor there?

The same situation has occurred in Huntsville. There are no residents there this year. They had GPs doing the work of residents all summer and, again, their utilization is way up. How do we encourage doctors to come north? How do we get any parity with the south? There are eight diabetes specialists in southern Ontario. We recently got one to go to Sault Ste Marie. How do we manage to get more services in the north? I would ask you how we provide the services. That concludes my presentation, Mr Chairman.

The Vice-Chair: Thank you for your presentation to the committee. Questions now. Mr Owens, did you have questions?

Mr Owens: I'd like to thank Dr Hollingsworth for all the personal attention he has paid to me and for his presentation. I do want to say, starting my remarks, that I personally know that the local MPPs, Floyd Laughren,

Sharon Murdock and Shelley Martel, are working extremely hard to address the issues that exist in northern Ontario and certainly didn't begin on September 6, 1990. So I'm not quite sure why you make comments about how you can't get meetings and lack of availability. I simply know that is not the case, that these members are out working hard.

In terms of the issue with respect to health cards, I'm curious to know from you, sir, why you returned the patient's health card to Mr Wilson instead of the minister.

Dr Hollingsworth: I didn't receive a reply to my question, Mr Chairman.

Mr Owens: I'm not the parliamentary assistant or the minister. I'll redirect the question to the parliamentary assistant with respect to services in northern Ontario.

The Vice-Chair: Thank you. Are you doing that now or do you wish to speak?

Mr Owens: I'd like to finish my questions.

The Vice-Chair: Yes. Continue, please.

Mr Owens: Then perhaps Mr Wessinger can respond to Dr Hollingsworth.

In terms of the physician supply issue in northern Ontario, and quite frankly across the province in rural areas, I'm wondering if you and your colleagues have come up with a model in terms of determining the numbers of physicians that are required and what is the best way to get the physicians where they're required.

Dr Hollingsworth: There are many different ways of getting physicians' estimates of how many doctors are needed. What's become the working norm is a figure that was never intended to be used for this purpose; it's the Royal College estimates of doctors per head of population.

Just to give you an example, it would be recommended that you have perhaps one orthopaedic surgeon for every 30,000 to 60,000 head of population. We're now left with about four for 650,000. It would be recommended to have one psychiatrist for every 8,000, and we have one for 80,000 at the moment in Sudbury. So the figures that we use for determining these ratios are not well worked out, they are not scientific, but by any guideline we're well underserved, Mr Owens.

1640

Mr Owens: You and a number of your colleagues are quite active in terms of your activity in the community with respect to physician supply. I'm asking what models you have developed. You've told me what doesn't work. I'm asking you what, in your view, would work?

Dr Hollingsworth: I'm not saying it doesn't work. What I'm saying is, this is the working principle that's been used by the Ministry of Health. It's been used by the Ontario Medical Association. It's been used by the Ontario Hospital Association.

Unfortunately, I have a full-time job. I've been on call the last two weekends; I'm on call again this Thursday. I had to cancel patients to come down here and make this presentation. I'm not sitting around wondering about ratios and guidelines. I'm actually trying to see patients who wait about four months to see me. So I haven't

worked out any guideline. I would go with probably what people are working with, understanding it's not perfect.

The Vice-Chair: Mr Wessenger, do you wish to respond to the questions?

Mr Wessenger: I'll just add a quick comment. As Dr Hollingsworth may know, the OMA agreement commits the government and the OMA to work together with respect to the whole question of underserved areas and with respect to contracts, and a lot of work is being conducted at the present time in coming up with the best schemes to deal with this matter and the appropriate form of contracts and approach. I think the most successful approach is a joint approach with the OMA, and I'm optimistic that they will come up with a reasonable plan.

Dr Hollingsworth: Mr Wessenger, that's very interesting. I have a motion I'd like to read to you from the members of District 9 at our last annual meeting and it states, "In the opinion of District 9 members, physician retention initiatives have not been successful in northern Ontario and new initiatives need to be sought by the Ontario Medical Association."

There were various statements made during that meeting; for example, "CMA in locum programs were virtually useless." This is relating to the new memorandum of agreement in which we have less than about \$2 million or \$3 million to solve all these problems in the north, which would perhaps give us all about a day off in the year and get us a booklet sent.

There are 850 doctors in the north. We're not going to get any change as long as people like you, who have this central, downtown Toronto idea, make smug statements like that, because it's just not working and it's not going to work. You're going to see more and more rationing and more and more shortages, and what you're saying is absolutely untrue. It may be backed up by the OMA, but the doctors in the north certainly don't agree with it.

Mr Wessenger: I see you haven't changed, Dr Hollingsworth.

Mr Jim Wilson: Dr Hollingsworth, I very much appreciate our ongoing dialogue. I appreciate your taking the time out of what I know is a busy practice and coming to see this committee. I think it's sad that there's such discontent and turmoil among your colleagues and the public in Sudbury.

What we've had a problem with, over my time here in Parliament, is trying to get the government to understand that it's the general negative climate created by its policies that is having a real impact on services and physicians' lives and forcing them to leave this province and to leave the north, and not in any way serving to encourage new physicians to go north.

I want to publicly thank you for all the time you take out. Some members may disagree with your style. I happen to appreciate people who are direct, to the point, and don't mess around. I think you speak from the heart when you try on numerous occasions to explain to the government what the climate is like in northern Ontario. You're right, we do have unfortunately a Toronto-centred mentality here. We have an abundance of services here and it's hard to put ourselves in your shoes. When the

government won't listen to you, I find that extremely sad.

I'll give you one more shot at trying to explain to fellow human beings here what it's like to live and try and work in that climate that's been created in the Sudbury area.

Dr Hollingsworth: We have less than half, in many cases a quarter, the number of doctors you've got down south, so that when you cut back our utilization to 95% of the work we did last year people are living on 25% to 50%, less 5% again. When we lose people, we cannot increase our output. You have tied both hands behind our backs now.

We are working with equipment that's way outdated. Mr Wessenger, you probably know, because you're parliamentary assistant, that there are 12 MRI scanners in this province and we don't have one in northern Ontario, and yet we have about 9% of the population. You also probably know that we cover 80% of the land mass. You probably feel in your heart of hearts that we should have at least one in northern Ontario, but you probably won't say it today. Would you like to respond to that, Mr Wessenger?

Mr Wessenger: I'm not aware of what the plans are, so I'm not in a position to comment.

Dr Hollingsworth: Let me tell you what the plans are. We're going to get our own MRI scanner, the same way we got a cancer clinic. We're going to collect the money from the public. We'd better get funding from this government, because we've had it up to here. We're not going to take it lying down. We're not going to see the services in the north disappear.

Mr Robert Frankford (Scarborough East): To get into alternatives, have you given any consideration to population-based funding per capita, either in HSOs for primary care or even going big scale to an area CHO?

Dr Hollingsworth: I think what you're proposing is probably better than this death by slow strangulation. You're obviously thinking about the problem.

One of the problems we have is that we have less than half the doctors per head of population. Therefore, because you have a doctor-driven system—the cutbacks are based on doctors largely; to some extent hospitals—you can see the destruction coming. You can see that with half or a quarter of the doctors, when you cut back 5% this year and 5% next year, you're going to see catastrophes. We've not been offered a CHO system. The government has not come out and made that offer to us.

I think that at this point anything that can be done to preserve services in the north should be considered. We've certainly tried to help. We've taken part in a hospital restructuring. We've looked at hospital services very closely. We're trying to form an interlocking board. We're trying to make the system work, but we don't think it can work, given the plan. As time goes on and we self-combust, basically, there will be nothing left in a few years. By the time this government is finished, in two years' time when the mandate is over, there will be nothing left of health care services in the north. I'm convinced of that. Unless something is done very rapidly, things are going to go downhill very quickly now.

Mrs Sullivan: As usual, I find Dr Hollingsworth's remarks useful, not only in the debate on the bill that's in front of us now but because Dr Hollingsworth is always able to bring us around to particular legislation that goes beyond that.

I'm interested in a number of things. With respect to this particular bill, I wonder what the attitude of physicians from the Sudbury area and other practitioners, if you've spoken to them, is about taking responsibility for capturing, if you like, a health card, and returning that; how you would go about talking with your colleagues about how you would identify a non-resident, which is apparently now the criteria of people who work with you in your own practice or those who work in the hospital—you would expect the government would be requiring to collect those cards—and what advice you'd have for them.

Dr Hollingsworth: It's a bit like the travel grant situation. We fill in the travel grants and we do our best. Dr De Blacam, who's a colleague of mine, had a lady come and she wanted six travel grants filled in. She was going to Ottawa for allergy checks and she wanted all her children and her husband, and he said, "Well, can't you go in one car?" She said: "Actually, we're making a holiday of it. My husband's taking the Winnebago." This is what's happening in the system.

Now, we can't take responsibility for this, unfortunately. We are very busy doing the day-to-day work, getting up at night and seeing people who are sick, trying to process all the cases that are being sent to us. What's going to happen if we spend time policing the system is that we're going to get more behind. For the doctors in the north—and I've talked to a lot of them about this and I'm glad you asked the question—their attitude is that basically Bill 50 means the Minister of Health is going to micromanage the system.

This is what this bill really means, that she is going to be responsible for health care for every patient. It's not going to be the doctor's fault if she can't get service; it's going to be the Minister of Health's fault, because she's in charge of exemptions, she's in charge of every micro-aspect of the system that there is, and the doctors will just become employees. You'll have a position that I'm sure you've heard of before, Mr Owens, where the Ford factory worker sprays the cars when the lights are working, when the paintbrush is okay and when the cars are coming through, and when they're not coming through, the doctors won't be doing the work. It's the same analogy, and that's what's going to happen with Bill 50.

1650

Mrs Sullivan: You talked about the requirements for physician resources. My view is that there are other health personnel in the north who are required as well as physicians. One of the things I have been quite concerned about with this bill is that it appears that in the absence of an appropriate health practitioner strategy that's long-term, that's properly funded, that starts before young people go into university and takes into account a broader extraprovincial, intraprovincial network, we're going to be operating by ministerial exemption.

We see that last week the Minister of Health said: "Oh, my God, it is finally being noticed that we have a shortage of radiation oncologists. We will contact Immigration and say, 'Yes, come on, we can take five or 10,'" or whatever. Next week it may be anaesthetists for northern Ontario. Another week it may well be an emergency doctor for Clinton or for another village or town or small community hospital that now is not able to provide those emergency or 24-hour services.

It seems to me that is the absolute worst approach to health care planning and to management, and that it kind of fits with the ad hoc decision that was made about the photo identification card. You're part of the OMA, as a member of the OMA. I was astonished to see how little homework had been done by either the doctors or the Ministry of Health before signing an agreement to bring forward a health card that over the period of introduction will cost \$50 million, may not solve a problem, and nobody knows what the problem is.

I guess what I'm saying to you is, isn't the entire problem in terms of the actuality of delivery of services that we're seeing now a problem that's been based in the disbanding of a planning process, where it was in place, an analysis of the appropriate delivery mechanisms and an evaluation of how things are really working?

Dr Hollingsworth: I couldn't agree with you more, Mrs Sullivan. What we have in this province and to some extent in Canada in general is an absolute absence of people going into certain programs: obstetrics, general surgery. In those specialties in all of Ontario and a lot of Canada, we have a greying population of doctors. The average age of obstetricians in our city is something like 60 years of age. The average general surgeon is 55 years of age. Many of the obstetricians are just waiting to close their offices and quit. There is nobody coming to replace them. Over half the slots for training in obstetrics are empty.

Ms Jenny Carter (Peterborough): Would the midwives be coming in at this time?

Dr Hollingsworth: We can perhaps get into that in a minute when I finish Mrs Sullivan's question. We can certainly talk about it if you'd like to pose that question, but maybe I could answer this lady's question first.

The other problem you alluded to was the health card problem. It seemed to me a very basic point that if you had made sure people were entitled to service in the first place, if you had made sure they came down to the office, and they had to come, bring their passport, bring their whatever—their residency permit or their landed immigrancy—and prove to you, as a clerk at that desk, that they were residents of Canada and entitled to this service, we would be a lot better off. I agree with you. Photos are not going to solve the problem if the original verification is bad. That's the basic problem.

Mr Jim Wilson: Very quickly, Dr Hollingsworth referred to section 43.1. Dr Hollingsworth, you made the statement about physicians now acting as police, and I agree with you that's very unfair with respect to the health card situation. There's protection from liability for physicians who may act under this section, but Dr Hollingsworth brought up a very good question with

respect to the CPSO process if patients, or potential patients, were to complain.

I'm just wondering if legislative counsel or the parliamentary assistant have put their minds to that. CPSO mentioned that it'll probably backlog them even worse than they are now with respect to complaints. I'm just wondering if there isn't anything we can do in this legislation to try and weed out frivolous complaints that may go to the CPSO, given that, as has already been pointed out several times, there are no criteria by which physicians or other health care practitioners are to approach this issue in terms of determining residency. I would appreciate your comments on that.

I can see exactly Dr Hollingsworth's point, and given the experience with some of the harassment of northern Ontario physicians by the Ministry of Health and complaints process of CPSO, I think we should try and do something to stem what could be a very large tide of complaints.

Mr Wessenger: As you may know, we passed the Regulated Health Professions Act and the regulations under that act will, I assume, be proclaimed in the near future, the end of this year. I assume as part of those regulations that there will be regulations passed by the college with respect to the complaints procedure. There should be a definite item set out.

Mr Jim Wilson: But with the introduction and passage of this legislation, which we have been unfortunately unable to stop at this point, there's a new ground for complaint. You're adding another type of complaint that could go in there and you're not giving any guidance to physicians and those you're asking to police your system.

Mr Wessenger: I think if you recall, the evidence given by counsel was that the provision exempting the medical profession from liability, the thing "no proceeding" would also include a proceeding under the complaints procedure. That was the legal opinion that seemed to be relatively agreed upon: The words "no proceeding" would be broad enough to cover the complaints process. So at least a formal complaints process would certainly not be able to be taken as a result of the physician reporting.

I think also CPSO made a very good point; they made two points in their presentation, I think, that were quite interesting. The first point they made is that they felt the reporting should be mandatory. Secondly, they felt there should be a standard that was reasonable with respect to when the report should be given. They felt they would create a liability problem if there was voluntary reporting. They felt that would create more of a difficulty with respect to the CPSO than if there was mandatory reporting.

Mr Jim Wilson: But more accurately, CPSO made it clear that if there had to be reporting, they preferred mandatory. I don't think they particularly appreciated the fact that they were to be the police of this system and made that quite clear in the presentation.

Mr Wessenger: I'm just reading their report. Certainly, I was under the impression that they were in favour of

mandatory reporting but that they wanted a standard they felt would avoid the frivolous complaint situation, with respect, being dealt with.

Mr Jim Wilson: Chair, could we hear from the witness with respect to this issue?

Dr Hollingsworth: I think there is a situation where you're in double jeopardy here as a doctor. You see someone who clearly has probably just come across the border from the US and is using the system, which I presume is what we're talking about, and this will be very bad in certain pockets; for example, in the Niagara Peninsula and Sault Ste Marie. Certain areas will be very bad. Certain areas like Sudbury really won't be too bad. You'll be faced on a daily basis with deciding whether or not—I'll give you one example: somebody in our local area who is an American who owns a lodge who somebody has told me is suspected of using the system here for free. I'm giving this as an example anonymously just to illustrate a point.

Do I find out this person's name and call Mrs Grier's office or Mr Wilson's office or Barbara Sullivan's office and tell them, or what do I do about this? How far does my responsibility go? Is it only when they come into my office and use the services? There are many other situations that will occur that are very grey. If I don't report them, am I going to be blamed because I serviced them and will I have to take my fee as a loss and take the overhead as a loss? There are many things to be worked out about this legislation and the speed at which it's going through makes that impossible.

I would like to respond to the lady on my left here. She asked me a question.

The Vice-Chair: Proceed.

Dr Hollingsworth: Could I ask her to identify herself?

Ms Carter: My name is Jenny Carter, the member for Peterborough. It just occurred to me when you were talking about the number of obstetricians going down, whether that will not be to some extent compensated for by the services of midwives, who as you know are now becoming available in Ontario.

1700

Dr Hollingsworth: This may take some time, so I'll very quickly abbreviate what I'm going to say, as short as possible for time for the committee really.

The midwifery situation in Sudbury is going to be a disaster because there will probably be nobody left to supervise these people as far as we can tell. We, at the medical society, have passed motions similar to what the Ontario Medical Association said. We're against birthing centres for reasons of cost and safety. A separate birthing centre to a hospital is going to cost you money and it's going to cost lives. If women are bleeding to death or the baby comes out very blue or black, you don't have a lot of time to transfer people by ambulance. We're against the current model of midwifery for reasons of costs mainly and safety.

In the European model, as you know, they have nurses who go on to take extra training and these nurses are very capable. They work in delivery rooms and I must

say I have the greatest respect for these people. They're very, very capable and they have a very good safety record. But if something does go wrong, the obstetrician, the doctor who's in charge of the case, is called in and comes in very quickly.

You're going to have the reverse situation. Is the NDP government against home births or for home births? As far as I understand, they're for home births. Now home births went out with the ark. I mean it's great to have a home birth and a nice experience, but there are many women who'll tell you they were quite shocked when in their third and fourth pregnancies, which should have been their easiest, they had major complications.

We're not against midwifery because we're against women. We're against it because at this time we're sending our patients home clutching their sides after they had their appendix or gallbladder out after two days or three days, and we're not able to get our patients into hospital. We've got 14 people waiting in the emergency room every night to try and get into hospital, and here we have money being found to build centres of excellence and comfort.

The midwife salaries will be \$50,000 to \$80,000. There'll be two at each delivery, and if you work out the numbers—they're going to do about 50 deliveries a year—it's going to cost you \$2,000 per delivery, and you're going to tell me you're going to save money because you're not going to use the hospital system? I can tell you, you just need one disaster and you're going to cost the system millions and you're not going to save money.

Ms Carter: I'm not familiar with the situation as it is projected to be in Sudbury, but my experience is that as long as you have an expert within call, that is to say, who can arrive within 10 minutes or whatever, then you don't have a problem. Now I realize in the north people live in scattered areas and they need to move physically so that they are near to the services that they just might need.

But having said that, I would have thought that the immediate hospital situation and the immediate presence of an obstetrician or whatever is not required in a very large number of cases. I speak as somebody who has had home births and with the knowledge that help would arrive, if necessary. I don't see why that would be impossible in your circumstances.

Dr Hollingsworth: Just very briefly, to respond to that, this current model is based on somewhat the Dutch model, which is a small, flat country with a high density of population. As you rightly pointed out, we've got problems in the north immediately with that. But they have flying squads for these home births. They have groups of people sitting in an ambulance or sitting in a room and an ambulance is outside.

This is what we used to do in Ireland when they had home births. An obstetrician, a doctor, an anaesthetist and a nurse rush out 15 miles, pick up the woman, give her blood etc. We don't have flying squads here; we don't have the money for them. If we're going to have the money, you've got to give us the money.

The same problem occurs with billing numbers for the

midwives. How are we going to pay the doctors who see the patients the midwives want them to see? Who's going to refer these patients to the doctor? It's going to be the midwives. They're going to need a billing number and who's going to pay for that? Is it going to come out of our global budget, our 95% that's going down every year and with which we can't service the patients we've already got?

The whole thing is based on a house of cards. It's not going to work. It was a very good idea when it started out with the Liberal Party. I think it was very nice that it would have worked. There were some problems with the model, I think, when your party got hold of it. It came from the Liberal Party. I know it's not your fault. It was something you inherited. It was a very popular thing with the public. You have to try and do something with this. I'm not against your party or the policy. The point is that in this fiscal time with this particular model, you're going to have a lot of disasters and it's not going to save you money, it's going to cost you money.

Ms Carter: You see, I have reason to believe that where you have a less clinical setup when a person is giving birth, there are less likely to be complications. Now I know books that have been written on this, but the figures bear out that where you have a fairly primitive situation, where women who have some knowledge of what they're doing at least are responsible for births, actually a lot of the backup services are very rarely required, far less than they would be in a more high-tech situation, for various reasons, including psychological ones.

Also, of course, people do get cross-infections and so on when they're hospitalized, which they wouldn't get in a less medical situation. I think you are putting a rather one-sided view of this.

The Vice-Chair: Thank you. Mr Owens.

Mr Owens: Thank you, Chair. I think we're over time now. I'll yield to the Chair.

The Vice-Chair: Ms Sullivan, did you quickly have a question.

Mrs Sullivan: I have one very small question with respect to third-party billing. We have been asking for a list of third-party billings that are required now for certain institutions, agencies and so on, nursing homes, by example, boards of education, and you had indicated that you thought billing for third-party services was appropriate.

One of the things that is of some concern is with respect to the prevention aspect of third-party requests. I'm thinking particularly of boards of education. You thought that it wasn't too bad. In an attempt to move towards third-party billing or third-party payment, the government has already introduced regulations. In fact I don't think this part of the bill is necessary. It seems to me that the government has the power under current regs to do it.

But one of the areas is with respect to the Education Act and permits the Minister of Education to require certain employees, as a condition of employment, to have a tuberculin test. Do you think that's something that's

worthwhile maintaining and, if so, who should pay?

Dr Hollingsworth: This is just one example of many things people ask us to do. We get endless forms put in front of our faces for people going to day care, to bring the child to a day camp, most of which we feel is futile, in particular with tuberculin. We know the incidence is very low in North America. However, it is a disease that affects immigrants, it affects people with AIDS and it may have a resurgence unless we're careful. I would think that the answer to your question would come from public health people rather than me.

But again, if the board requires it, perhaps it should pay for it. What is it they're trying to prevent and how good is the evidence that the money will be well spent? You're very good, asking these questions, because you're really trying to prioritize the dollars as to where they're going to go, and what you're asking is, is this a priority? I think it probably isn't, but you probably should talk to some of the public health people in that jurisdiction. We have to keep prioritizing and that's the way we have to go. I think you're right.

Mrs Sullivan: Thank you.

Dr Hollingsworth: Thank you very much.

The Vice-Chair: Thank you very much for your presentation and responses, Dr Hollingsworth.

STEPHEN CONNELL

The Vice-Chair: Dr Stephen Connell will make the presentation. I understand you're very short of time so I'm sorry to—

Dr Stephen Connell: Yes. I'd like to leave at about 5:20.

The Vice-Chair: All right. We'll make note of that and perhaps you would give your name and position, please.

Dr Connell: Stephen Connell. I'm a psychiatrist. I'm here today for two reasons. Firstly, I believe in the democratic process of deputing to our elected representatives. Secondly, I believe that the government listened to Ontarians when it resisted the pressure of the health bureaucracy to delist intensive psychotherapy last year, and I believe that it will listen to Ontarians again this time around.

Both opposition parties, the medical profession and health consumers have spoken out against the elements of this bill that have bureaucrats prescribe psychiatric treatment. Despite what the former Deputy Minister of Health told the public when these proposals to cut psychotherapy services were announced, this is a proposal to again attempt to strike out against those psychiatric patients who need intensive psychotherapy. This is the bureaucracy's second attempt to delist a psychiatric service that affects hundreds of patients.

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Both Health critics eloquently presented the public's concerns when these proposals came out on July 26 and 27, and I have circulated the Hansard which summarizes their excellent speeches to the House. I really feel they had a very good grasp of the issue.

As Barbara Sullivan stated, "What about the patient?

If a patient needs a medical treatment that the government has arbitrarily deemed to be not medically necessary, according to its own arbitrary standards or calculations based on cost, where will the patient be?" She continues, "The universality criterion is under attack here, but the accessibility criterion is also under attack."

Mr Wilson, in respect to psychoanalysis, stated: "I have tons of paperwork on this, tons. I want to commend many, many people in this province who took the initiative for the first time in their lives to come forward and to take on the NDP government and to point out the public need for psychoanalysis.

"Psychoanalysis, in many of the studies I have read over the past few weeks, can be a life or death issue.... We're not just talking about cardiac surgery or lung surgery or all kinds of services that I think everyone in Ontario would agree are medically necessary; we're also talking about mental health services. Psychoanalysis is a prime example of that."

It saddens me that the government has been put in a position where it has been unable to address any of the issues raised by the Health critics in the House with respect to restricting psychotherapy services. I believe, with respect to this proposal, that they've been led down the garden path by a small core of ideologues in the Health ministry who believe that those who are treated by psychotherapy are not seriously ill.

In 1992, these ideologues attempted to delist psychoanalytic treatment because they said it was cosmetic. They expected to save \$1 million at that point, and that's the second document I've circulated which I've obtained. Suddenly it went up to about \$26 million. We've got juggling around of figures here with really no substantiation of—what's going on? There's an important vote, is there? You're watching the TV.

The Vice-Chair: We have time.

Dr Connell: Okay. According to information that has been obtained under the Freedom of Information and Protection of Privacy Act, it appears that these bureaucrats naively expected that there wouldn't be any fuss about this. Instead, a massive wave of protest occurred and hundreds wrote in to the Minister of Health, Mr Dexter, and the OMA. All the heads of psychiatry in Ontario challenged the prejudiced view coming out of the bureaucracy, and I enclose those letters from every head of psychiatry in Ontario for the record of this committee.

The minister at that time happened to my MPP. I believe she listened carefully to the public and responded by reassuring those who contacted her that their treatment would not be delisted. She attempted to begin a dialogue between psychoanalysts and bureaucrats working on mental health reform. I commend her on having done this and I think this is the right approach in dealing with issues like this. However, this dialogue was not pursued by the bureaucrats beyond one meeting, and I attended the first meeting.

The matter was referred to an appropriate body, the joint management committee, and it concluded that psychoanalysis should remain in OHIP. The matter should have rested there. What a debacle then when the bureau-

cracy tried to end-run this fair and open process by representing the proposal in the guise of expenditure control with grossly inflated figures beyond the \$1 million they originally said they would save; it suddenly went up to \$26 million.

What is worse is that the previous Minister of Health, my MPP, the person who had managed this issue on behalf of the government, knew nothing about it, she told me, when it reappeared on the expenditure control list. She told me personally, "That a bureaucracy would attempt to exercise its prejudice in the heat of a frenzy of expenditure control measures without informing those in government who had already made decisions, who had already performed the role on behalf of the people governing this province, to me is reprehensible."

Similarly, the current Minister of Health does not seem to have been informed about this issue and was apparently not informed of the previous tremendous public outcry that had occurred the first time the delisting was attempted. The government has been embarrassed, I think, by the bureaucracy and made to appear as if it doesn't know what's going on.

One of the key things that impressed me about the Premier's initial approach to government was his attempt to involve the public in decision-making. He attempted to create a government of the people. Recently I watched the town hall forum on television with respect to the federal elections, and what struck me was the universal sentiment that comes across, one way or another, that people want transparent government. The public wants accountability and wants to participate in government decisions.

With respect to the issue of restricting psychotherapy, none of the issues that I've asked about personally or that I know others have asked about in the House have been answered. Suddenly, no one seems to know who is responsible. Suddenly, the savings stated, annualized \$42.4 million and \$26.5 million projected, cannot be explained by anyone. Suddenly, information is not provided to the opposition even though it's asked for under formal parliamentary rules.

The information that has been provided is paltry and is clearly being doctored to present and to perpetrate a prejudiced view. For example, information has been provided to the Health ministry about intensive psychotherapy and psychoanalysis by the public, but it has not been assimilated into the overall opinion and conclusions it presents material about.

I personally put in a freedom of information request to try and get to the bottom of this. This is because my MPP and the Minister of Health had been unable to answer any of my questions, amazingly despite my MPP's previous position as having been the Minister of Health. She says she doesn't know what's going on with respect to this motion and she tells me it's being dealt with by the OMA and the government. But we see in this bill still, in subsection (7) of point 2, the ability of the government to unilaterally limit services such as psychotherapy outside of decisions reached by the joint management committee.

How can this process be a fair one? How can the

public be involved in a way that's effective and that keeps prejudiced ideologues within the Ministry of Health in check? Ideologues may be well-meaning, but they aren't physicians; they don't have clinical training and they don't treat patients. They must not be able to end-run the JMC by throwing in these measures in the guise of expenditure control, particularly when extensive public consultation and participation took place around this issue and concluded that the bureaucrats were wrong and that delisting should not take place.

There must be a way that a bureaucracy is kept in check and that the public whose taxes pay these bureaucrats can obtain genuine accountability and transparency with respect to their actions. Furthermore, the government must be protected from actions by the bureaucracy that only serve to embarrass what I believe has been a genuine attempt on behalf of the NDP government, and indeed most politicians, to fairly represent the wishes of their constituents.

I should add, however, that I was alarmed to read in the Hansard documents of the night following the ones I provided that several senior government MPPs have been prescribing measures on the basis of their own experience to constituents who are already being treated by psychotherapy. One senior government member is cited as having suggested that a constituent try drugs rather than the psychotherapy, and another suggested that because she had had two-times-a-week psychotherapy, therefore all people in the province of Ontario should not need anything more funded by OHIP.

In conclusion, I ask only that the members of the committee be aware of certain aspects of the expenditure control bill that I believe reflect bad government and bad process. Overall, I am very much in favour of the government's attempt at reducing the expanding budget deficit within this province. It must be done, however, in a way that protects the public from overzealous ideologues who in this case, I believe, are misguided and out of control. Thank you for your time.

Mr Wessinger: Dr Connell, thank you for your presentation. I must apologize, because I had thought it had been communicated to individuals that psychotherapy was not going to be restricted. I certainly have written quite a number of letters to various of my constituents advising them of such, and I'm sorry that somehow you were not advised of that situation. I appreciate you coming and I'm glad to be able to indicate to you that it's not intended at all.

Dr Connell: Thank you, Mr Wessinger. I've been told that since the first attempt, when it was called "cosmetic," and I was told by my member of Parliament and I've been told over and over again that it's safe, that it's not going to be delisted. What really disturbed me is that with the expenditure control bill, suddenly we see it emerge again, and my MPP says that she knew nothing about it. I feel there's still a risk that these ideologues will strike out again, and I have a stack of freedom of information material that really demonstrates how out of touch on this issue they are and how zealous they are to have it delisted.

I notice that in the amendments, section 7 has not

been deleted. You've deleted sections 4, 5 and 6, but in the amendments I was provided with, section 7 still provides the opportunity for the government to reduce amounts of services. Is that the case?

Mr Wessinger: No, section 7 of the bill is gone, I'm advised.

Dr Connell: I'm very pleased to hear that.

Mr Williams: I think there's a confusion because unfortunately the numbering of the bill and the numbering of the subsections in the act itself are sequential, but subsections 4, 5 and 6 of the bill are gone. Included in subsection 6 of the bill was the reference to subsection 45(7) of the act. That's where the confusion lies. The only thing that's basically left in the bill is the section dealing with the Hospital Labour Disputes Arbitration Act and the sections dealing with the medical review and the practice review and section 1.

Dr Connell: That was not at all clear. Thank you.

The Vice-Chair: Thank you for the clarification.

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Mr Jim Wilson: Dr Connell, I still think we're not out of the woods at all with respect to this issue. I think the government has been somewhat dishonest in its approach; that is, it's removed these sections because they looked bad in the original Bill 50, but the powers, of course, are still there with the status quo with respect to deinsuring services.

I'm going to take one more stab at it, as Mrs Sullivan has in the past; we both have. Can we see the list, Mr Wessinger, with respect to the items that the government is proposing to delist and with respect to the OMA's list of services to be deinsured? If that were put out to the public now, we would save a lot of people like Dr Connell a great deal of time and anxiety if, as you say, it is true that psychoanalysis is not on either of those lists.

Mr Wessinger: I don't have that information available to me.

Mr Jim Wilson: Then how can you make a categorical statement that psychoanalysis is not in jeopardy?

Mr Wessinger: It's been made very clear through the process that it's not in jeopardy.

Mr Jim Wilson: It's not clear to me, and I'm the critic. I don't think it's clear to the Liberal Party. Obviously, Mr Connell has given evidence that it's not clear to his MPP, the former Minister of Health. I don't know to whom it is clear, other than you.

Mr Wessinger: Section 7 originally permitted restrictions on the limits on a treatment, and that section has been removed.

Mr Jim Wilson: You took that out of this bill, but you still have those powers in existing legislation, and you're going to do it behind closed doors with the OMA.

Mr Wessinger: I don't think that's fair to say, but I would suggest it's fair to say that anything could be, in future at any time, if any government decided to take a particular area and make a political decision. I'm not saying we're going to do that; I'm just saying that's the way, under the existing legislation.

Mr Jim Wilson: I agree, so I think it was somewhat

cosmetic and a political exercise to remove those provisions out of this bill so that we wouldn't have a lineup of people, including Dr Connell's patients, coming to this committee. You've taken it out of the bill, you've put word out to everyone via letters etc, "Don't worry about the delisting psychoanalysis; it's not in the bill any more," and you told us earlier today that those issues are now separate from this legislation. Yet as legislators we have no other avenue to tackle this delisting or potential delisting because we have no other avenue to discuss the OMA-government agreement.

Mr Wessinger: Mr Wilson, that's just like—

Mr Jim Wilson: So if you're prepared to categorically say—

The Vice-Chair: Please, one speaker at a time.

Mr Jim Wilson: Mr Wessinger, I need more than just your word on record that psychoanalysis won't be delisted. I want to see a document from the Ministry of Health indicating that.

Mr Wessinger: When the public announcement is made with respect to the matter of which items are on the list, you'll be entitled to see that. However, I point out that the deletion of the section from the original bill does take away the power to deal with, for instance, the limiting to 100 hours. With that section gone, the government no longer has the power to put on those limits.

Mr Jim Wilson: I disagree.

Mrs Sullivan: The more we deal with even the amendments to Bill 50, the most outrageous bill that's been before the House in a long time, the more I think that this bill should be off the table. The third-party billing stuff can be dealt with, as it already has been, through the regulatory process. The labour disputes act and the other bills should be dealt with in a separate piece of legislation that deals with the arbitration process and the Medical Review Committee.

With respect to powers of the ministry—and as we're dealing with Bill 50 in committee we have to deal with the original bill and not just with the amendments—I can't tell you how outraged I am with respect to the proposals that have been made and how psychiatric patients have been treated over a period of time.

In the beginning, there was a proposal that emanated directly from the Minister of Health—not from the profession, not from people who are providing service to patients, but from the Ministry of Health—which made a judgement about the cost of the service and nothing else, nothing about the benefits, nothing about the patient outcomes. They didn't look at those things. Then Frances Lankin, then-Minister of Health, finally, as a result of pressures from Dr Connell, patients and other professionals, removes that from the Ministry of Health proposals.

Lo and behold, it's back on again. Can you imagine the tension and stress that those people have gone through over that period of time? It's back on again; intensive pressure, people breaking down in offices. We had a witness who was going to appear before the committee today who could not stand the stress of appearing here. This is outrageous.

We now have a list being prepared, behind closed doors, of services to be removed. I have had a private conversation with an individual from one of the parties who indicated to me that neither one of the parties would dare to have psychoanalysis, psychotherapy, on their lists, and that is the only reason it's not on their list. It has nothing to do with medical benefit, it has nothing to do with outcomes measurement, it has nothing to do with patient services. It has to do with the fact that there was a public outcry raised about taking the procedure off the OHIP list.

That is no way to plan health care services. It is no way to ensure that our patients have adequate treatment when they need it, how they need it, without barriers that are created by some bureaucrat or a minister intervening in decisions about what should be appropriate health care. The Minister of Health should not be making those judgements and there should be no Ministry of Health list.

I don't have any questions, Dr Connell. I'm sorry to blow up, but I'm really annoyed about this.

Mr Wessinger: I'm just going to make one correction with respect to the comments of Ms Sullivan. The reality is that third-party liability can only be imposed by legislation. You can't, by regulation, impose liability on a third party, so that is quite an incorrect statement.

Mr Frankford: Do you want to just clarify? We're talking purely about psychoanalysis or psychotherapy. I don't know if it's my fault, but I find it a bit confusing in some of the documentation I'm reading.

Dr Connell: I think the bureaucrats are confused as to what it is, because one thing that they harken back to is this idea of Freudian classical psychoanalysis where you see a patient many times a day, many days a week, indefinitely.

That's the biggest bit of BS I've ever seen. That is a gross attempt to malign and misrepresent what it is we're doing in the front lines treating people. We treat people on the basis of training and on the basis of well-defined criteria for treatment. You later on have the proposal that it's going to be restricting all psychotherapy to twice a week, but we don't know the rationale for this.

You're mixing up apples and oranges when you make these two different proposals. If you track through the freedom of information material, it begins with this statement that sounds terrible: "How could a doctor see a person many times a day? It must be abuse of the system." Then it somehow gets refined, but with the same prejudice, to become two times a week, that everyone can be seen no more than two times a week.

We're really talking about a proposal to restrict psychotherapy to treating someone only 100 times a year or two times a week, whether it's psychoanalytic treatment, behaviour therapy, cognitive therapy or whatever therapy it is. That patient can be seen no more than 100 times a year because some bureaucrat in Kingston has this notion that classical Freudian psychoanalysis, which went out in the 1930s, should not be practised in Canada.

Mr Frankford: I'm not sure you really have totally clarified for me.

Dr Connell: The proposal was for intensive psychotherapy beyond two times a week.

Mr Frankford: I think it says psychoanalysis per se would be delisted in the same way that, if one is going to delist, one might delist one particular operation. Is that correct or not?

Dr Connell: That's how it began. The first document I provided was in 1992, and it said that psychoanalysis was a cosmetic procedure: A, B, C, D; there were skin tucks and ear lobe repairs and on the bottom was psychoanalysis; this was a list of cosmetic procedures. Fortunately, Frances Lankin saw through that, and we had a big discussion, lots of meetings; it was dealt with. Then it came back again as psychotherapy no more than two times a week in 1993 with this bill, in a different form.

Mr Frankford: Just for my information, is it your understanding that that was aimed at GP psychotherapy?

Dr Connell: Oh, no, I don't think it was at all attacking GP psychotherapy, because as you track the documents through you see exactly the same phrases that were used with the initial cosmetic procedure delisting attempt back in 1992, when there was a huge outcry and it all calmed down. Then we had a new Minister of Health, we had the expenditure control bill, and it came out with the same language and—you can track the process—the same discussions, because they had discussions in the JMC on marginally insured services, but with the expenditure control proposal to reduce it to two times a week. They were trying to do it in a different way, but they were attacking the same group of patients; that is, patients who are seen more than two times a week by a psychiatrist. I haven't heard anything about the government's proposals. I didn't see anything in the material specifically about GP psychotherapy. I haven't seen any mention of that specifically.

The Vice-Chair: Dr Connell, thank you. I must interrupt; we're running short of time. There are two other items we need to deal with, and I know you're under pressure for time. Thank you for your presentation and your responses.

The committee will note that there was another presenter listed, Ms Carole Rodrigue, who is unable to make the presentation at this time but has left a tape for the committee's viewing. I would expect you would want to see that—I hope you do—and we'll arrange that at another time at the next meeting.

The clerk has one item to present to you—oh, for the subcommittee. All right, if there is nothing before the committee at this time—Ms Sullivan?

Mrs Sullivan: I do have some concern that perhaps other presenters who will be asking to present before the committee may be patients who have been receiving psychotherapy or other psychoanalytic services and who may not want to present in public. I wonder if the subcommittee could consider that as a part of our public hearing process.

The Vice-Chair: That indeed will be considered by the committee; we've requested to do so. Nothing further? The meeting is adjourned. Thank you.

The committee adjourned at 1732.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Sullivan, Barbara (Halton Centre L) for Mr McGuinty

Wessenger, Paul (Simcoe Centre ND) for Mr O'Connor

Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND) for Mr Martin

Also taking part / Autres participants et participantes:

Frankford, Robert (Scarborough East/-Est ND)

Laurier, Catherine, policy adviser, labour-management policy branch, Ministry of Labour
Ministry of Health:

Wessenger, Paul, parliamentary assistant to the minister

Williams, Frank, deputy director, legal services

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 1 November 1993



Journal des débats (Hansard)

Lundi 1 novembre 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

**Expenditure Control Plan Statute Law
Amendment Act, 1993**

**Loi de 1993 modifiant des lois
en ce qui concerne
le Plan de contrôle des dépenses**

Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 1 November 1993

The committee met at 1535 in room 151.

EXPENDITURE CONTROL PLAN STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE
LE PLAN DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Projet de loi 50, Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Chair (Mr Charles Beer): Good afternoon, members of the committee, ladies and gentlemen, for hearings continuing into Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act.

I'd just say to everyone, I don't know if this is worker health and safety, but it's awfully warm in here this afternoon. We have asked that the heat be turned down, but please remove jackets if you're feeling too warm.

CAROLE RODRIGUE

The Chair: We have a number of presenters this afternoon. The first one will be an audio presentation by Miss Carole Rodrigue, who is unable to be with us but who has asked to make the presentation via an audio cassette.

The committee listened to an audio presentation.

The Chair: If I might, on behalf of the committee members, thank Ms Rodrigue for that tape, that of course will form part of the record of our deliberations.

CANADIAN PSYCHOANALYTIC SOCIETY,
ONTARIO BRANCHES

The Chair: I would then next call upon the representatives of the Toronto Psychoanalytic Society, if they would be good enough to come forward. You may wish to help yourselves to some ice water, given the southern climate here.

Members may have a schedule; I'm not sure if theirs has been changed as well. The group that was to come next called this afternoon to say they would not be coming, and that's why we've moved on to the psychoanalytic society.

Gentlemen, welcome to the committee. If you'd be good enough to introduce yourselves for Hansard, then please go ahead with your presentation.

Dr Paul Finnegan: I'm Dr Paul Finnegan, and to my left is Dr Douglas Weir. Good afternoon. I'm the president of the Toronto Psychoanalytic Society and represent, along with Dr Douglas Weir, our members and the members of the three other Ontario branches of the Canadian Psychoanalytic Society.

Currently, there are over 150 qualified psychoanalysts in practice in Ontario. About 90% of these people are psychiatrists who, after completing their medical degrees and subsequent psychiatric qualifications, have undertaken an additional five years of psychoanalytic training prior to qualifying to practice as psychoanalysts. Among these people are to be found many of the leading psychiatric educators within our province, men and women of outstanding qualification, expertise and commitment.

Our presentation today concerns the impact of recent proposals by the government of Ontario to place limits on the provision of psychoanalytic services under the Ontario health insurance plan. Thus we're here today to represent as well the interests of all of those citizens of this province for whom psychoanalytic treatment is or will become a matter of medical necessity. I'll call upon Dr Weir now to make our presentation.

1550

Dr Douglas Weir: Thank you. I was a little nervous about coming today, but if I'd known you were going to give me such a warm welcome, I wouldn't have worried about it.

As you may recall, the original text of Bill 50 included severe measures restricting access to psychotherapy services to a maximum of 100 hours per patient per year. The effects of such a move would be devastating to our patients and to our profession. Such restrictions would eliminate psychoanalysis as a proven, effective and medically necessary treatment.

Our patients are among the most vulnerable in society, and their neglect would end up costing our health care system more, both in direct and indirect costs. We strongly oppose such restrictions. We therefore support the amendments to Bill 50 which appear to retract these measures.

However, we are also aware that psychoanalysis could again become the target of arbitrary cuts and unilateral decisions by the government in the future. Our members, like other service providers in the health care field, understand the challenges we all face in the responsible management of health care costs in Ontario. However, we believe that arbitrary cuts and unilateral decisions about certain forms of treatment such as psychoanalysis and psychotherapy are a dangerous way to proceed. Our experience has shown that ill-conceived proposals combined with a lack of consultation can result in seriously flawed health care policy.

Our purpose in coming here today is to warn you against the dangers of delisting effective and medically necessary treatments, to point out the negative impact of arbitrary and unilateral decision-making on our ability to maintain clinical integrity, and to appeal to you to close the book on this unwarranted, unsupported and ill-conceived attack on psychotherapy and psychoanalysis.

For those of you who may not be aware of the details,

the controversy surrounding the proposal to restrict access to intensive psychotherapy has been under way for more than a year and a half. In February 1992, psychiatrists in Ontario learned, without warning or consultation, that psychoanalysis was included on a list of so-called borderline cosmetic surgeries. This list was being considered for removal from the schedule of OHIP benefits. A vigorous defence of psychotherapy and psychoanalysis was launched. Despite the warnings, the government continued to give serious consideration to this proposal, and in March 1992 referred it to the joint management committee for its recommendation.

The OMA indicated at the time that it had not been consulted on the preparation of the list of services to be reviewed. The JMC reviewed the scientific evidence supporting the efficacy and medical necessity of psychoanalysis. On October 14, 1992, the JMC made a clear recommendation to the ministry to maintain psychoanalysis as an insured service and to develop a separate fee code for this treatment. The Minister of Health wrote to anxious patients reassuring them that the JMC subcommittee recommendation was for psychoanalysis to be maintained within the fee schedule and that no further action would be taken without consultation with the OMA and others. You can imagine their distress to find their ongoing treatments once again under attack with the introduction of Bill 50.

The reintroduction of the proposal clearly showed that the ministry was still operating in the Dark Ages with regard to an understanding of the medical necessity of psychoanalysis and the needs of hundreds of Ontario residents suffering from mental illness. The remarks of the Honourable Ruth Grier in the Legislature and elsewhere revealed that she was still using briefing notes based on inaccurate and misleading information.

On June 7, 1993, a backgrounder was released by the Ministry of Health with several alarming references. Without exception, all of the misleading statements in that document are false and unsupported by hard evidence. What is more alarming is that they have the effect of making clinical decisions on behalf of patients and of undermining the principles of medicare, affecting both comprehensiveness and universal access to needed treatment.

Hundreds of letters have been sent to the Premier, to the Minister of Health and to government officials detailing the facts that are supported by up-to-date scientific evidence. We have requested that the Ministry of Health backgrounder be retracted and corrected. We have received no confirmation that this has been done. We have held numerous meetings, tabled petitions in the Legislature and circulated information to NDP caucus members and opposition critics. The response has been varied, with vague assurances from the ministry that no final decision would be made until the expenditure control plan was complete.

We would like to acknowledge the support and assistance provided by the opposition critics, Barbara Sullivan and Jim Wilson. In particular, we are grateful to Mrs Sullivan for her order paper question concerning this issue. The documents provided to her, in addition to our

own freedom of information request, have confirmed our worst fears.

The Ministry of Health does not have any real figures on the savings to be generated by this proposal, as it cannot, under the present system, report on the amount of psychotherapy being done for more than 100 hours per year nor on the amount of psychoanalysis being billed under OHIP.

Not only do the ministry documents reveal inadequate costing estimates but they also draw conclusions based on an incomplete search of pertinent scientific literature and professional opinion. It is interesting that the ministry's briefing note on this issue is an exact duplicate of that acquired from the government of Manitoba, right down to the incorrect spelling of the name of a researcher they cite.

It would appear that our own Ministry of Health accepted this highly questionable expert opinion to justify its proposal without even doing its own critical analysis. The ministry did not attempt to consult with psychiatrists or psychoanalysts in Ontario, and it would appear that it did no further investigation of the matter itself other than to reproduce the poorly written briefing note of another provincial government.

The ministry has failed to appreciate the adverse consequence the policies of the Manitoba government have had on patient care in that province. The weight of the evidence regarding the efficacy and cost-effectiveness of long-term psychotherapy and psychoanalysis for specific patient groups is considerable. In Manitoba, patients receive inadequate psychiatric care, which leads to continuing disability and dysfunction and often to increased medical, surgical and inpatient psychiatric costs.

Ontario psychiatric patients have been fortunate to have a complete range of psychiatric services, including intensive psychotherapy and psychoanalysis, paid for by OHIP since the inception of medicare in this province. Furthermore, psychoanalysts have made major contributions to the psychiatric profession in this province.

It should come as no surprise to the ministry that the proposal to limit psychotherapy was met with strong opposition. The psychiatric community in Ontario has the expertise to point out what a disaster this proposal is. In addition, there are thousands of patients in the province who know first hand the benefits of the therapies under risk.

The ministry neglected to consult widely on this issue. Bill 50, as it was introduced and before the amendments that came about because of the negotiations with the OMA, would not improve the situation. Instead of having to consult more, Bill 50 would have allowed the ministry a free hand to introduce proposals, such as the one to limit psychotherapy, with no requirement of having to consult with anyone.

In the standing committee on estimates, July 27, 1993, the Honourable Ruth Grier advocated the need to change health care management and delivery. Psychiatrists and psychoanalysts are aware of the need for changes. However, constructive change will not occur while the ministry is spreading misinformation and making propo-

sals that threaten services which have been a valued part of medicare since its inception.

Health care providers and patient groups have been ignored by the ministry as it follows its own misguided course. We hope you will take the initiative to see that the record within the ministry is corrected and that health care policy is not given over to this flawed process in the future.

These comments are an abbreviated version of the Toronto Psychoanalytic Society's written presentation on Bill 50. I would urge you to read the details, which put meat on the bones of the arguments I am presenting. We will be pleased to answer any questions of the committee or to provide clarification on any of the points we have raised.

The Chair: Thank you very much, and thank you very much for a very detailed written brief, which we all have, as well as the questions and answers at the back, which I just note for the record, dealing with the Canadian Psychoanalytic Society and its work.

1600

Mr Jim Wilson (Simcoe West): Thank you, Dr Weir and Dr Finnegan, for your excellent presentation. I am glad you took the time out of your busy schedules to appear before the committee because, as you may know from following the committee hearings, I'm certainly not convinced that we're out of the woods yet with respect to the delisting issue. On our last day of hearings last week, I tried to get a very firm statement from the parliamentary assistant, in fact to get it in writing, that psychoanalysis or psychoanalytic therapies would not be delisted. We were unable to do that. I think, it being my opinion that Bill 50 underwent some cosmetic changes from its original draft, that the intent of the government is still there, although it did pull out of the new version of the bill some of the more offensive wording and paragraphs. All those powers are still contained, for the most part, through regulation now under this bill.

I thank you for coming forward and encourage you to have people who are currently in therapy or have had it in the past to continue pressuring the government. You did an excellent job on the lobbying side, I have to say. It leads me to, how do we stop this attack on psychotherapy from happening again? One thing I've learned as critic, in speaking with you and others over the past few years, is that this just keeps cropping up. What is the long-term solution? You mention part of it is to get the briefing notes up-to-date and make sure they're made in Ontario. That would be helpful. I'm astonished to hear that the ministry would be reading from a briefing note in the Legislature that was prepared in Manitoba.

But in terms of the OMA and the government now still having a closed-door process of matching lists of what's to be deinsured between now and Christmas, how do we open up that process, or how do we make sure that some time down the road when next year's lists are prepared psychoanalysis doesn't again appear?

Dr Weir: I share your concern about that because, like you, I'm concerned about next year's list. I've accepted the vague assurances that we're not on this

year's list but, like you, I'm concerned about next year. It needs to be an open process. The public needs to be involved, there needs to be much more involvement of the profession. It is very much a small group within the OMA and the ministry that is negotiating this. My hope would be that under the new mandate they've set up with the OMA, they would involve patient groups, they'd have open public hearings.

I only saw the final results of the JMC when I read it in the notes that were sent to Barbara Sullivan; I'd never seen the minutes of the JMC before that. I'm the one who provided the information that the JMC reviewed, yet I never had a chance to look at the minutes of those meetings. In that sense, I think it has to be a much more open process and professionals and patients need to be involved in the process and given a chance to speak.

On the other hand, I think also what we've learned out of this is that we need to take the time to better educate the people who are in that position. Obviously, last year what happened was that we breathed a sigh of relief in October and we shouldn't have done that. We should have stuck around and continued to educate and so forth.

The other thing that I think has to happen is that clearly we're aware of the need to control costs. There's a joint task force of the OMA section of psychiatry and the Ontario Psychiatric Association that's looking at the whole issue of guidelines for psychotherapy, which would include psychoanalysis, so that people have the appropriate training to do these kinds of therapies and so there is some sort of guideline so that the appropriate patients are being seen in the appropriate kind of therapy, and that if there are abuses there is a mechanism to monitor them.

Mr Jim Wilson: With limited health care dollars, if government pursued, as you said, a more open process, would you be in favour of some sort of prioritizing of what's to be covered by medicare in this province and what isn't? Would psychotherapy, do you think, if the public were asked, be a very high priority for them?

Dr Weir: The public perception of psychoanalysis is that it's a luxury treatment for people, so I don't think that's necessarily the answer. In some ways, the model of a priority list is the Oregon model of reviewing services. The problem with that is that the Oregon model does not include any mental health services, not to mention psychoanalysis. It doesn't mention any psychotherapy, drug rehabilitation programs or inpatient psychiatric programs.

The problem with that kind of model is that psychiatric services of all sorts tend to be low priority in the public's mind, and they tend to be neglected over more sexy items like heart transplant surgery, so I have a sense that that wouldn't necessarily be the way to go, especially for psychiatric services, which tend to be in the public's mind not necessarily essential until you need them.

Mrs Barbara Sullivan (Halton Centre): I think it goes without saying that we appreciate your being here in front of the committee because this has been a recurring issue and one that has caused many people a lot of concern as the government's position appears to have changed from time to time with respect to the issue.

We were interested in noting last week in hearings that while I had asked for the list of measures which are proposed for delisting from OHIP in the House, and Mr Wilson asked in committee for assurances that psychotherapy was not on the list, the parliamentary assistant to the Minister of Health indicated to us that he was advising his constituents that psychotherapy was off the list, but in fact we have had no formal indication that psychotherapy is neither on the OMA list nor on the Ministry of Health list. I think that is something we were all eager to pursue.

I was interested in your responses with respect to the process of ensuring that professional expertise is involved in making decisions about what should be covered, what are the most efficacious methods of approaching illness or disease, and the evaluative mechanisms that have to be put into place.

There are a couple of other aspects I wanted to pursue, not particularly in those areas—I happen to believe they're very important in managing the system—but with respect to the kinds of impacts that you've seen on your patients with respect to the on-again, off-again issues associated with the listing-delisting of psychotherapy controversy.

The second area that I wanted to move to, if you want to do this all in one, was specific aspects that were included in the amendments the government has brought forward, and with respect to mandatory reporting and the kinds of relationships that Ms Rodrigue spoke about, the relationship of trust, intimacy, the personal relationship with the therapist. She referred to psychotherapy as a life support system for her and for other people.

I'm interested in your views of the kind of reporting that would be required of the professional, given grounds to believe that a person is not a resident, and for thereafter capturing an OHIP card.

I've given you lots of width, but with two specific directions.

1610

Dr Finnegan: If it pleases the committee, I'll address the first part of that question about impact on patients, and ask Dr Weir to say something about the question of mandatory reporting of health card fraud.

I was very moved by the tape we heard in this committee just before Dr Weir and I came to the table. This lady put before you, I think, a view and a feeling that is commonplace in my office as a practising psychoanalyst.

The patients we see in psychoanalysis are really a very carefully selected population of patients for whom psychoanalysis is a specific treatment. They are often people who have been very damaged by early experiences in life, either by loss of an important object in their life, the death of a parent, divorce, neglect or abuse of some sort.

In my practice in particular, I have a number of patients who have been in various ways abused, exploited, neglected and abandoned in their early childhood, and I can tell you that with regard to the on-again, off-again threat to the continuation of a treatment which is designed to help them to recover from the impact of all

of that on their character and personality, the impact is to have them revisit the feelings of having been abused, exploited, neglected and abandoned. In other words, they experience this movement on the part of government to cut off their treatment as the same kind of abuse, neglect and abandonment that they experienced in childhood.

For many patients, questions of trust and intimacy and the durability of relationships are absolutely central to their lives and need to be worked through in therapy and psychoanalysis in order that they can go on to have successful relationships with other people.

A speaker beforehand on the tape, Ms Rodrigue, spoke of her treatment as a life support system, and I expect that's quite true in her case and in many other cases as well, but it is not a life support system that goes on unendingly. Psychoanalysis becomes a treatment in which dependency is fostered not so that it will last for ever, but rather so that it can be resolved, so that people can go on, without their treatment, to live happy and fulfilling lives.

The impact on patients of this on-again, off-again measure to restrict their treatment has been singularly devastating to many patients, and it also has had the unfortunate effect in this province over the past year and a half of unnecessarily prolonging treatments because of the disruption that these government initiatives have had on the treatment process. There's no good that's come from this.

Dr Weir: If I could just answer the second part of the question, which had to do with the mandatory reporting of health card fraud, as a society we don't have a position on this but I'll give you my personal views, which are that I think psychoanalysts, more than anyone else, are aware of the importance of the relationship between the patient and the physician and the importance that plays not only in therapy but in any kind of clinical contact.

I think the wording of this needs to be very well thought out, and I guess one of my concerns, which I think has been echoed by both the Ontario Medical Association and the College of Physicians and Surgeons, is that the wording should be more specific than things like "a suspicion of." I think people have to know what they're reporting and what they're not reporting.

This is a very delicate area, and we don't want to go into it without some specific guidelines. At the same time, I think we all want to do something about health card fraud, so it's sort of a delicate balance between respecting the patient-doctor relationship and also, if there's fraud going on, I think something has to be done.

When it comes to "suspicion of residency" and other kinds of phrases like that, I tend to not know what they mean. I'm very suspicious. I mean, I'm very suspicious that next year psychoanalysis will be on the delisting list again, so I may end up reporting a lot of people. Some colleagues who are not so suspicious may not report as many. That's all I have to say about that.

Mrs Sullivan: I just have one other question.

The Chair: Just one.

Mrs Sullivan: I know that you did a lot of work in analysing documentation that you received from the

ministry. Do you have any sense of where the three different estimates of cost savings came from? The first was \$1 million, the second was \$26.5 million and the third was \$42.4 million that the ministry projected could be saved by limiting services in psychotherapy and psychoanalysis. Do you have any sense where those figures came from?

Dr Weir: The short answer is no. It's on page 8, if you want to see the details of this in the long version. When this first came out in February 1992, the estimate at that time was that they could save as much as \$1 million. A year later, in April 1993, that figure ballooned to \$26.5 million, and then in June 1993 it totalled \$42.4 million. There has never been an explanation, and going through all of these documents I've never found an explanation of where they got the figure of \$42.4 million. Similarly, they don't explain where they got the estimate of \$1 million, so it's hard to know.

I think it's unlikely that there would be \$42 million worth of savings. First of all, the point we make over and over again is you may save the money in terms of psychotherapy, although I'm sceptical of that, but you'll find in other jurisdictions what has happened is that these patients end up going up for other medical costs or the money gets spent on hospitalization. So it's a false saving, if it is a saving at all.

Similarly, you have to remember that half of our patients earn less than \$40,000 a year, so presumably they would not be able to continue their treatment. Psychotherapy is in high demand. Most psychoanalysts would fill up their time with people for less than 100 hours a week, and so there would be zero savings as far as I can see and patients would not be getting the care they need.

It would probably prolong care because patients—I think, as Dr Finnegan pointed out, the goal and the reason for the intensity of treatment is not to keep people in treatment for ever but to help them resolve their dependency and to get on with leading productive, independent lives.

The Chair: Thank you. The parliamentary assistant.

Mr Paul Wessinger (Simcoe Centre): Thank you very much for your presentation. You expressed some concern about having a process that was open to the public and also a process where I gather you wanted a level of expertise in determining this whole question of what medical services should be given priority. I'm going to ask Dr Eugene LeBlanc to perhaps give some indication of the public process part of the matter of dealing with the question of delisting and also perhaps some assurance that this is a continuing process rather than—

Dr Weir: Can I just make a comment? I wasn't opposed to a public process, I was opposed to a priority process in terms of—rather than determining whether things are medically necessary but making a list, like they do in Oregon, where mental health services tend to be neglected.

Mr Wessinger: No, I understand that you're not in favour of the Oregon system, nor is the government, but I'll ask Dr LeBlanc to indicate to the committee.

Dr Eugene LeBlanc: It's Eugene LeBlanc, Ministry of Health. The parliamentary assistant, I think, has said most of what I could say. The first is that the contractual proposal is in fact a public process drawing upon both expertise and lay input, unlike the Oregon process which, whether you liked it or not, was dominated by health professionals. Virtually no rank-and-file people participated in that process. It's intended to permit both. It is not, however, at least contemplated at the moment as a permanent process, but a time-limited process to deal with outstanding issues that have been left over from the past.

I think one should make clear that it's not quite, as the previous speaker put it, a list derived from cosmetic surgery. It was in fact based on an interprovincial study lasting some years in which detailed studies were done of provincial fee schedules, identifying those codes that were not common across the country. It turns out that the dominant number of such codes were cosmetic but it was not a cosmetic study. It was a study of codes that didn't appear across the country.

Having said that, I think the government and the OMA agreed that a process that did not have public input was not the way to go and so it has set up such a process, which I'm hoping starts very soon, and that both the proposed items for discussion, the timing and places and times by which people can make their input, will all be made available broadly to the public at the same time.

The Chair: Thank you. I'll just allow for a brief question.

Mrs Sullivan: I'm interested in Dr LeBlanc's characterization of the OMA-MOH process as being a public process. It's conducted behind closed doors with two people who represent the public sitting as part of a committee. No one knows what's on anybody's list; there's no public discussion. If psychotherapy is on the list there is no guarantee, by example, that members of the medical profession who are engaged in that particular aspect of treatment will in fact be consulted. This is not a public process.

1620

Dr LeBlanc: Maybe I didn't explain myself thoroughly. The process that is contemplated and is in fact spelled out within the contract would be a public process, not a JMC process but a public process with an independent chair. What it was looking at would be made public comprehensively and a means by which either professional input or, somewhat atypically, direct patient input could be provided. So the process that is being contemplated under the current OMA would be a public process. What has not been provided for is that it would be a permanent process. But for the one cycle, which is this year, the process would be public and it would be publicly known who the committee members are, where it's meeting and what its agenda is, so that those who have interests to express would be able to do so.

The Chair: I'll allow a last comment.

Dr Finnegan: I wish the Ministry of Health had been as able to accept our offers of consultation in this matter as the gentleman to my far left has been willing to come

in and encroach upon our time. We have come here to present the society's point of view and the point of our view of our patients, to speak to them and to discuss the impact of what we thought was a very improper process in the past. We hope this message has gotten through to the committee.

The Chair: Thank you very much for coming before the committee today.

INFERTILITY AWARENESS ASSOCIATION
OF CANADA

The Chair: I next call upon the representatives from the Infertility Awareness Association, if you would be good enough to come forward and introduce the members of your delegation.

Ms Debra McNevin: My name is Debra McNevin. I'm the advocacy chairperson of IAAC Toronto. With me is Deborah Tennant, who is the public relations chairperson of IAAC Toronto. We are also expecting our coordinator, Diane Allen, but she has not yet arrived.

IAAC is the Infertility Awareness Association of Canada, which is a national charitable organization offering assistance, support and education to people experiencing infertility. IAAC is committed to increasing awareness and understanding of the causes, treatments and emotional impacts of infertility.

Currently, all funding for our organization comes from membership and donations from interested individuals, organizations and professions. IAAC Toronto offers information, telephone support, educational seminars, support groups, training for support group facilitators and advocacy on issues of importance to the infertile community.

Infertility is a medical condition affecting one in six couples of childbearing age in Canada, including me and my colleague with me today. Thirty per cent of infertility is caused by abnormalities in the female reproductive or endocrine systems, 30% in the male reproductive or endocrine systems and 30% is caused by both male and female factors. For the remaining 10%, no cause is ever discovered. Infertility has many different treatments, including in vitro fertilization, which has been considered non-experimental since 1985.

So why are we here? We are here because notwithstanding that Bill 50, which I'll call "the bill," makes no mention of it, the Ontario government is proposing to control health care costs by removing currently funded medical services from OHIP coverage, and we believe that IVF is on the chopping block.

When the bill was first introduced, it contained two subsections which allowed the government to limit services covered by OHIP: subsection 2(5), which basically repeated clause 45(1)(i) of the Health Insurance Act, which I will call "the act," and allowed the government, by regulation, to determine which services would be covered and to prescribe circumstances in which they would be covered; and subsection 2(6), which allowed the government to limit the number of times that a service would be covered within a particular time period.

You probably recall that the OMA had an extensive advertising campaign against these sections. I brought a

sample just so you'll remember how much time and effort was spent by the OMA on those issues. In response to that campaign and negotiations with the OMA, the bill has been amended and these sections deleted. The OMA seems to be satisfied that its significant concerns have been addressed in the amended bill. However, we are still concerned because the apparent waiver of the powers in these sections means very little, as the government retains the same power by clause 45(1)(i) to reduce services by delisting or by limiting circumstances under which services will be covered. I suggest that the addition to Bill 50 which caused such controversy was not required as long as clause 45(1)(i) remains in the act.

This regulation-making authority gives unlimited power to the Ministry of Health. There are few guidelines or criteria to govern the decision-making process. I could find only two guidelines in the legislation: that medically necessary services must be funded and that experimental procedures must not. These requirements can only be inferred from the definitions sections in the act and in the Canada Health Act.

The act defines "insured services" as "all services rendered by physicians that are medically necessary" and the Canada Health Act defines "insured health services" as "physician services provided to insured persons." "Physician services" means "any medically required services rendered by medical practitioners." To receive the full cash contribution available from Ottawa, Ontario's program must insure all medically required services. Neither the Canada Health Act, the Health Insurance Act nor Bill 50 define "medically necessary" or "medically required."

We suggest that the first step in deinsuring services should be to define "medically necessary." We understand that a joint management committee of the government and the OMA has been working for months to do so, and we suggest that its work be completed before any decisions are made.

The second step should be to elaborate the criteria for coverage of services, because many criteria, in our submission, are applied without being clearly stated. We have agreed as a society that all medically necessary services must be covered and this is clear in the legislation, but we actually fund medically appropriate services, for example, eye examinations, joint replacements and yearly physical exams. Until these unstated criteria are clarified, an appropriate service could be eliminated because it does not fall within the stated criteria.

The third step should be to establish procedures to finalize definitions and criteria. Initially, the process should be a joint one with the OMA and MOH. Input should then be sought from expert groups, for example, IAAC, as the representative of the infertile population. Then the public should be allowed to participate in this very important discussion. If objective and specific criteria and definitions can be established, further public input would often not be required when a decision about a specific service was necessary.

The fourth step should be to establish procedures for public input when decisions about funding specific services are pending. Procedures for public input must be

made accessible by including them in the legislation. There is no provision in the bill or in the act setting out procedures to be followed to determine which services are to be eliminated after criteria are established. Despite numerous calls to the ministry, the OMA and the Liberal and Conservative Health critics, we haven't been able to confirm that public input will be allowed—until I heard from Dr LeBlanc today—nor have we been able to confirm the form of the input.

We understand that there's a procedure in the agreement between the doctors and the government which presumably satisfies the doctors for now, but it's not included in the bill. This suggests that the structure will only exist for the life of the agreement and that there is no commitment on the part of the government to the procedure. We would like to know when the proposed list will be released, how we can get copies of it and when hearings will be held. Public input, to be meaningful, requires public information.

The legal profession has a saying that justice must be done and must be seen to be done. This principle is no less important in government. We suggest that a procedure be determined for establishing the proposed list of services to be discontinued, that time frames be established, that the form of public disclosure and input be described and that all these things be enshrined in the legislation.

1630

The OMA conducted an expensive, extensive campaign against the provisions of the original bill and was successful in being heard and having its issues addressed. Few groups have the funds or the expertise to do the same. We do not know why delisting is not mentioned in the bill, why there is no definition of "medically necessary," why the procedures to determine which services to be delisted were not included and why there is no provision for public input into these issues. Another public campaign should not be required to have these issues heard, but they should be dealt with now and the bill amended.

The Chair: Thanks very much for your submission. Before we go to questions, I welcome—I'm assuming it's Diane Allen who's joined you.

Ms Diane Allen: It's Diane Allen, yes.

The Chair: I apologize, Ms Allen. We got a little ahead of schedule, so we got started. Welcome to the committee. We'll begin questions with Ms Sullivan.

Mrs Sullivan: Thank you very much. This is a useful brief, particularly following as it does the brief from the psychoanalytic society, which has faced many of the same issues that you have faced over a period of time, and knowing that the services of the people for whom you advocate are being threatened with delisting and knowing as well of the extraordinary confusion about what's occurring.

I've been very interested in the reproductive technologies over a period of years, particularly with the decision which was made by our government to include in vitro fertilization as an insured service under OHIP. In doing some work in this area, I've discovered that the

World Health Organization, by example, classifies infertility as a disease, and it's a recognized international approach that treatment which follows infertility is therefore medically necessary. I believe the Canadian Medical Association itself has classified infertility and the treatment of infertility as a medically necessary treatment.

The process you put forward as proposals for dealing with the determination of what is medically necessary and therefore what should be included as part of our medicare program I think is useful input, and you've put a lot of thought into that. The one aspect that I think has been left out is evaluation; that's something that on an ongoing basis and from a personal basis you're faced with on a day-to-day basis.

My understanding—this is rumour, I suppose you could say—is that the lists that are being prepared which will be discussed with respect to what will come off medicare, one prepared by the Ministry of Health and one prepared by the Ontario Medical Association, have a difference with respect to in vitro fertilization. My understanding, once again rumour-based, is that the Ministry of Health list includes in vitro fertilization and the doctors' list does not. Have you heard any of that kind of information? How would you respond if you saw the people who are professionals suggesting that in vitro is medically necessary and should remain a part of OHIP in comparison to those who come from a more bureaucratic background and who are suggesting that this is an easy target for removal?

Ms McNevin: We understand that IVF is not on the OMA's list. We haven't been given a copy of their list, but we've been told it's not on their list. We have no idea of whether or not it's on the ministry's list, but IVF has been on the ministry's hit list for a long time, so we have no reason to assume your information is incorrect. We have a lot of concern that IVF is being targeted for reasons that are not medical reasons. Obviously, in our minds, if IVF is not on the OMA's list, the OMA, the doctors who are the professionals, think it's necessary. We wonder how a faceless bureaucrat can contradict the professionals' opinion on that issue.

I suggest too that that's a reason why the lack of definitions in the act is a problem. It allows the ministry to say IVF is not medically necessary because there's no definition at all of what is medically necessary in the act or the bill.

Mr Jim Wilson: I want to thank the presenters for an excellent brief. You've pointed out very succinctly to the committee the crux of the problem; first of all, with your comments and observations about the Canada Health Act, with no clear definitions there. There is no list in Canada enshrined in legislation of medically necessary services that are to be covered by the provincial medicare plans. You've pointed that out. It's something we've tried to make clear over the past few years, because the public has a perception that there's an enshrined list and that the provinces can't touch them.

What we've seen is provinces pick on what they perceive to be easy pickings in terms of delistings. Had you not done what you did in terms of public lobbying and increasing the public understanding of the need for

infertility treatments, and indeed defining them and making sure there was an understanding that they are indeed medically necessary treatments—you've done a great public service, but it's unfortunate, as with psycho-analytic services, that you have to do that time and time again.

I want to commend you also for the process. You've not only come to tell us of the medical necessity, but you've outlined in a very thoughtful way a process that I think would be helpful if the government would adopt some of your suggestions with respect to public input on a permanent basis.

I want to give you a chance, though, to explain a little bit about infertility treatment services now, because it's my understanding—and I have really learned a lot in the last two and a half years with respect to IVF and other infertilities—that we have somewhat of a two-tiered medical system in this area now. I have friends who can afford to go outside medicare and receive treatments, counselling and the whole gamut, and others are on waiting lists. It seems to me that in fact there's a need to beef up the area, rather than what the government perceives is an easy target to simply stop funding.

Can you describe what it's like now for a young couple, for example, and what they would go through to either be covered or not be covered currently?

Ms Diane Allen: I think you have to separate IVF from the rest of infertility. Specifically with IVF, there are publicly funded clinics at five hospitals in Ontario. There are also several private clinics.

In order to be treated at a public hospital, you have to meet certain criteria, usually age criteria: under 37 for the woman. You're only allowed three trials at that hospital. If you don't meet that criterion, then your only choice is to use a private clinic. The clinic fees are about \$3,000 a treatment cycle, plus some additional costs, plus your drugs, which will run between \$2,000 and \$6,000 a treatment cycle and for which many people have no drug coverage.

The private clinics and the hospitals are all billing OHIP about \$1,500 to \$1,800 a treatment cycle on top of that. So if the OHIP funding for IVF is pulled, the fees at the private clinics will go from \$3,000 a cycle to \$4,500 or \$4,800 a cycle, because they don't have the operating grants the hospitals have to cover their overhead, their staff, their equipment. Not a lot of people will be able to afford that kind of cost.

If you look separate from IVF, it's very interesting, because for somebody, for example, doing a procedure called intra-uterine insemination, which is commonly done and for which the doctors are billing about \$1,000 a cycle to OHIP—IUI, we call it—there are some doctors in the province who are not billing over OHIP, who are only charging the patients for procedures or items that OHIP doesn't cover: things like a cervical cap, a sperm wash.

There are other doctors who, for the same procedure, are charging \$1,000 or more in "administrative fees." If you want to look at donor insemination, OHIP doesn't pay for the sperm. I don't know how they think you do

donor insemination without sperm. So you've got the cost of the sperm, plus the cervical cap, plus the sperm wash, which will bring you up in the \$500 or \$600 per treatment cycle range with a doctor who's not billing over OHIP. There are doctors in this city who are charging as much as \$2,300 in administrative costs per treatment cycle. They call it a program-matching fee.

I make this point because there are already significant barriers to service under what is supposedly a universal health care plan.

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Mr Jim Wilson: Obviously if the government delists this, clearly only the rich will have access to IVF.

Ms Diane Allen: I think the other risk of delisting is that there is a real lack of standardization in terms of procedures, recordkeeping, the way drugs are used, and it really leaves the patients wide open to a lot of risks. There is also no certification program in infertility medicine. If you go to a cardiologist, you know that's someone who's done a lot of specialized training and written exams. That doesn't exist in infertility.

You have everything from somebody who's done post-graduate work in reproductive biology and endocrinology and worked for years specifically in infertility, and on the other end of the continuum you've got obstetrician-gynaecologists with an interest in infertility but who lack the specialized training and experience. You also have, in some cases, family doctors handing out fertility drugs.

From my perspective, delisting and moving stuff more into the private sector leads to a much worse situation in the way of lack of standardization, recordkeeping, control and monitoring. There is very little at the moment going on and the guidelines that exist are generally voluntary. They are violated all the time and the person who's at risk in all this is the patient. If you had the time to listen to me, we've spoken to over 1,000 people on our telephone support line and had about the same number come to seminars. We have lots of anecdotal stories on what's going on and patients are really at risk by some of the practices that are going on.

Mr Stephen Owens (Scarborough Centre): Let me begin by thanking you for your presentation this afternoon. I did, on behalf of constituents of mine, write to the Minister of Health requesting that this service not be delisted as it's my view that there are good reasons to have it on the list. In terms of your presentation this afternoon, you talk about public consultation with respect to delisting, whether it's this particular code or any other services that are provided.

I'd like to have an idea of how you would go about, first of all, conducting a consultation of that nature and how would you determine what a consensus decision is at the end of the day.

Ms McNevin: On the public consultation question, there are a number of models we could choose from, and probably the one most familiar to everyone here would be the process we're going through right now. Amendments to a bill are proposed, the bill is published, you could pick it up at the Ontario Government Bookstore and then there is an opportunity to make submissions. You call the

Clerk's office or you read the ad in the newspaper, as we did, asking for submissions. I think that kind of process is one that's required.

We were just, in a way, lucky that we had been in the midst of a letter-writing campaign because we knew IVF was potentially going to be delisted. There are a lot of other groups that have no idea that whatever service that may be important to them is on the block. We just happened to know.

So I think you have to have public information before you can have public input. I think that if the process were included in the legislation, then everyone would be aware that a process existed and would know how they could participate in it.

There are a couple of other models that you could look at: the Oregon model, on which we, I guess, agree with the psychoanalysts. We don't particularly advocate that one. IVF is not a popular procedure either and it's a little understood one. I think this kind of process is what's required.

Possibly the committee the OMA will set up at this point, with the two lay people, the two doctors and the two government people, could hear submissions from the public after they establish definitions and criteria, because I think the public input is important. Obviously, you had the doctors and you heard how important psychoanalysis is to a lot of people.

In our area, the patients have a perspective that we can offer that the doctors can't. For example, our opinion may not be the same as the doctors' on some of these issues. Some of our doctors aren't particularly concerned about whether IVF is delisted or not, because they can probably make more money if it is delisted than if it remains listed.

We also have an opportunity to see the whole process from start to finish and could make some recommendations to a committee about how money could be saved. We have, like the psychoanalysts, some concern that if IVF is delisted, people will just participate for a longer and longer period in the lesser treatments, to no effect.

Does that answer your question on public consultation?

Mr Owens: Yes. In terms of the kinds of anecdotal evidence that you folks were talking about towards the end of the presentation, I'm alarmed by the lack of continuity across the field, that while reproductive technology is perhaps one of the newer kids on the block with respect to medical procedures, it's certainly not the newest procedure to hit the street. So in terms of the lack of continuity, the issue with respect to the differentials in services and fees for that service, I find that quite of concern.

My question to you is, given that kind of anecdotal evidence based on the numbers of members and people who have called you, have you spoken with the College of Physicians and Surgeons? Are you prepared to take up the call against this kind of activity?

If what you're telling us is what is happening out there, then I am gravely concerned, not only for the economic wellbeing of people but also for their health. We don't want people going for backstreet abortions, nor

do I want people out there having backstreet artificial inseminations.

Ms Diane Allen: We don't want it either. Even though the royal commission's short report that was released several months ago talked about in 1991 there were two practitioners who were identified as using fresh sperm for donor insemination and thereby exposing patients to the risk of AIDS, that's still going on in this city. In fact the fresh sperm is being offered for less money than the frozen sperm.

Last week, I talked to someone who was treated at a private clinic for IVF. This was a woman who was ovulating, who'd had her tubes tied from a previous marriage. She was, in my view, really overly medicated. She hyperstimulated. She ended up in the hospital. She haemorrhaged. She lost both ovaries and her appendix and she had a collapsed lung. She was an hour or two away from death.

Upon looking into this, I find that it's the patient who must complain to the College of Physicians and Surgeons. Somebody who's been through an experience like that is wrecked. To start that sort of complaint process can be really intimidating.

We have a lot of information that really concerns us. The fees certainly concern us because many patients don't know that maybe there's another doctor who's just as good who isn't going to charge them this kind of money. You can bet that the doctor they're seeing who's asking for it isn't going to tell them. Many people don't access treatment which would be appropriate for them, and the financial burden adds incredibly to the emotional strain that they're already under.

I am certainly willing to do whatever is necessary to try to correct the situation. When I first heard this stuff about fees, I thought it was extra billing, but no, I'm told that they can do it, that they're administrative fees.

The Chair: I regret that we don't have more time this afternoon, but I know I speak on behalf of all members of the committee. Thank you very much for your brief and for your answers to our questions. We appreciate your coming here today.

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ALEXANDER FRANKLIN

The Chair: I'd like to call our next witness, Dr Alexander Franklin. Would Dr Franklin be good enough to come forward. Welcome to the committee, Dr Franklin. We have a copy of your statement. Please go ahead.

Dr Alexander Franklin: This is regarding Bill 50, paragraph 6(8)3, as it applies to physicians.

The summary is: To encourage the appropriate distribution of physicians throughout Ontario, physicians in rural areas should be officially part of the academic world of medicine. To do this, there are some suggestions:

(a) The five medical schools in Ontario should each take on the post-graduate responsibility of one fifth of the province, in north-south bands.

(b) Area tutors should be available for advice and teaching.

(c) A new medical school should be established in the

north. McMaster could be relocated in Sudbury, Sault Ste Marie or Thunder Bay.

(d) Residents should spend at least a year in a northern community hospital.

(e) Study and travel grants should be given to physicians in designated northern areas.

(f) Paid sabbatical study leave should be a benefit for northern physicians.

(g) The Order of Ontario should be awarded to northern physicians after 20 years of service.

There are advantages of a northern medical practice: less professional competition; lower practice costs; cheaper housing; field, winter and water sports at hand.

There are, however, some disadvantages of northern medical practice, and those can be broadly grouped into medical and social.

With regard to the medical: no chance of academic advancement; professional isolation; with fewer specialists available, more diagnostic and therapeutic uncertainty, and thus higher risk of complaints to the College of Physicians and Surgeons and the Health Disciplines Board; a lower standard of medical care available to the physician and family; and the difficulty of finding locum tenens for time away from practice.

As to the social disadvantages: more severe climate; expense of travel; fewer educational opportunities for children such as schools, museum programs, art, music, libraries and major public events; the continual social contact with patients, and this can be referred to the dangers in Bill 100; and the difficulty of a single physician in an isolated area in finding a life partner.

When it comes to the recruitment of physicians for northern Ontario and underserved areas, I suggest a profile of the physician most likely to succeed and stay. The physician would be about 32 years old and should have above-average medical knowledge. This person should be married, with the number of children planned already born; this avoids the problem of delivery. A certificate in emergency medicine and a diploma in public health would be useful, as would bilingual skills in French and English and a strong interest in northern sports.

That completes my presentation.

The Chair: Thank you very much. I don't believe, Dr Franklin, you mentioned at the outset where you are practising, but I take it you're from the north?

Dr Franklin: Actually, I practise in Toronto, but I have practised for many years going to the north several days every month. By "north," I mean Elliot Lake, Sault Ste Marie, North Bay, Sudbury.

The Chair: We'll move to questions, then.

Mrs Sullivan: Thank you very much. This is an interesting presentation because it's the first one that we've had during consideration of Bill 50 with respect to the human resources in the medical sphere. We have, as you know, been faced as a province for a number of years with problems with respect to coverage of remote or rural areas.

I think that Dean Sinclair of Queen's University,

among others—but I think he's been more vocal than many others—has put forward ideas which are comparable to your own with respect to the attachment of medical schools to remote areas to provide support and a continuing relationship between those who are actually in the field and the academic environment that many of them seek as they want to continue practice. As well, his suggestion would go further to suggest that those schools should have a particular working relationship in developing practitioners for areas and supplying people, by example, for locum tenens or where there is a particular lack of a specialty.

I think that as we've looked at many of the questions with respect to remote regions, we've discovered that there is more than one reason that there is an undersupply of physicians in certain areas. One of the areas, of course, where there is a lot of attention now is with respect to specialty treatment care areas—I think of cancer, I think of kidney, other illnesses—where there is a particular population ratio deficiency.

I'm sure that you're familiar with Dr Sinclair's approach. How does that fit into some of the recommendations you've made?

Dr Franklin: Ms Sullivan, I'm not actually familiar with Dr Sinclair's approach, but from what you've mentioned, it seems extremely good.

Mrs Sullivan: When you are practising in the north, I assume it's on a locum tenens or a specialty area replacement or call-in, is it, to replace physicians?

Dr Franklin: Actually, it was regular visits to clinics over the years.

Mrs Sullivan: I see. In those circumstances, were those clinics always pre-approved in the Ministry of Health?

Dr Franklin: These were regular doctors' offices.

Mrs Sullivan: I see. So you have been basically practising both in the north and the south, travelling to get there.

Dr Franklin: Exactly. Precisely.

Mrs Sullivan: I see.

The Chair: Last question, please.

Mrs Sullivan: Oh, sorry. One of the difficulties many northern practitioners face as they want to move out into more remote areas of the north is that they aren't able to get the Ministry of Health approval for travelling to conduct those clinics, particularly in specialty areas; I think of bones as being one. So that question, then, does not apply to you?

Dr Franklin: No.

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Mr Randy R. Hope (Chatham-Kent): I'm interested in some of the synopsis here. I come from rural Ontario and I notice you don't mention that very much, other than the north. But I want to touch on a couple of areas here. One is about dealing with the professional isolation in rural Ontario.

You say the "lower standard of medical care available" to physicians and their families, and I take it when you're making these comments that you're only specifically

focusing on the north, because you start off at the beginning talking about rural areas.

One of the problems, listening to some of the concerns that are raised in our communities, is the "old boy" network, the don't-step-on-my-turf approach. When the new doctor comes in, he or she is trying to fit into the network of physicians who are already there. You talk about working in the hospitals. One of your paragraphs said you ought to spend some time in a community hospital. What about shared responsibility beyond that year, helping out all the physicians in your area with emergency room work and other work that is there?

When I read this, I know what you're trying to get across, but I guess a lot of us, when we do take jobs on, do not necessarily have all the social activities that we would like to have, but what we are trying to do is a fulfilment of a community and a fulfilment of our own lives, to help other people. I guess I just wanted to express that, because not everything is a perfect world. We don't live in Utopia. But at the same time, we have people around this province who need assistance and doctors.

I looked at one model, which would be instead of having the billing numbers designated to a doctor or physician, having the billing numbers designated to a community, and those communities hold the billing numbers. Then when the doctor requirements are there, you don't have to worry, and if you want to transfer, you transfer if there's an available opening of a billing number in a community, versus the billing number being established to the doctor.

Dr Franklin: I'd like to respond to Mr Hope. The point about the resident spending a year in a northern community hospital is not an original idea. This has been the practice in the UK for, let us say, at least 30 years. Residents rotated from the main teaching hospital for at least a year or so—that's what I did when I trained—and so you would have community experience as well as the more academic experience. This is the point I was making.

Also, residents spending at least a year in a northern community hospital might like the area very much and might continue practising after they get their qualifications, so that was the point to that.

As to the general medical care, this applies to everyone, of course, in rural and northern areas. One will not be able to get the selection of specialists and tertiary care available in main centres.

Mr Hope: Even for some of us who live in rural communities, an hour's drive one way or the other is not necessarily inconvenient, but you still have a problem. I see what you're trying to put across as points, but I don't think it's the end-all and be-all. I think there has to be a more definite distinction about billing numbers. I'm one who believes that a billing number ought to be designated to a community, and that way you're able to control and make sure that there are physicians there. Then, if physicians wish to expand their horizon in Toronto, for instance, and there's a billing number available, they have the right to move, but if there's not a billing number available, it does allow us to make sure that we're

meeting the needs of people in rural Ontario.

Dr Franklin: I'll respond to that. I was really thinking of someone in Elliot Lake, for example, who would have to drive two and a half hours either to Sudbury or to Sault Ste Marie, more in terms of that period. One hour, I would almost call a Toronto time.

The Chair: A final question to the member for Sault Ste Marie.

Mr Tony Martin (Sault Ste Marie): I found your comments about perhaps the lifestyle of northerners and the attractiveness or unattractiveness of living up there—sometimes we who do live up there resent the inference that somehow there's something less to be offered. I just wanted to, for anybody who might be watching, assure them that to live in a place like Sault Ste Marie or Elliot Lake or Sudbury is indeed a wonderful experience and can be quite fulfilling even to the professional ranks of physicians.

Mr Owens: Even Sudbury.

Mr Martin: Yes, even Sudbury.

There's been the idea put forth by our own government caucus on various occasions and by folks in the north that perhaps a medical school in the north might be a good idea. I know in my own community there's the group health centre that provides a support service to physicians that allows for a lot of freedom to go away for personal or professional reasons and still have their practice maintained, those kinds of things. I see some potential there for the development of a package of services that could be delivered to not only the larger centres like the Sault but outlying regions. Would you comment on that as a possible resolution?

Dr Franklin: I entirely agree with Mr Martin. I think when one looks at the map of Ontario, one sees the urgent requirements of a medical school in the north. If ministries are moved, why not medical schools?

The Chair: I'm afraid we're running over time. Dr Franklin, I want to thank you for coming before the committee. We appreciate it.

Dr Franklin: Thank you very much indeed.

ONTARIO COALITION FOR BETTER CHILD CARE

The Chair: I call upon the representatives from the Ontario Coalition for Better Child Care, if they would be good enough to come forward. Please just introduce yourselves for Hansard and then go ahead. We have a copy of your presentation.

Ms Kerry McCuaig: I'm Kerry McCuaig. I'm the executive director of the coalition.

Ms Cheryl West: I'm Cheryl West. I'm the executive director of Pat Schulz Child Care Centre here in Toronto and have been executive member of the board of the coalition.

The Ontario Coalition for Better Child Care was founded in 1981 to advocate for a universally accessible, high-quality, publicly funded, non-profit, comprehensive system of child care. Our members include child care advocates, educators, researchers, early childhood educators and programs, as well as unions, teachers and professional organizations.

We welcome this opportunity to express our opinions on Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act.

There are approximately 2,900 child care programs in Ontario, offering care for some 130,000 children. Child care in Ontario is legislated and regulated through the Day Nurseries Act.

In conjunction with the act, there are some 217 regulations governing the operations of child care, from staff qualifications and ratios to physical space, to health and safety requirements. Area offices of the Ministry of Community and Social Services are responsible for licensing and enforcing the DNA. This work is complemented by local health authorities which are named in the act as responsible for the interpretation and enforcement of health regulations.

Research has shown that high-quality child care has a positive long-term effect on children in areas of school readiness, protection for children at risk and the development of positive social integration. High-quality child care includes health safeguards. Without these safeguards, infectious illness such as gastroenteritis, rubella, parvovirus B19, meningitis, conjunctivitis, pinworm, scabies, scarlet fever, even head lice, can become rampant in a group child care setting, sometimes with tragic results. Among the methods child care programs use to contain the spread of infectious illness is requiring a doctor's note certifying that a child or staff member who has been infected is well enough to return to the program.

The coalition is concerned that if Bill 50 passes as is, staff and/or parents will be required to pay for essential doctors' visits. For example, under the amendments concerning third-party billing, Ontario's health plan would no longer cover doctors' visits to ensure that staff or children are able to return to the program following an infectious illness. If a staff member is required to produce a doctor's note after absence due to illness, she will be forced to pay for the doctor's visit.

It is worth noting here that child care is the lowest-paid job category in the country. Medical examinations required by staff or children before working or enrolling in a program will no longer be covered by health insurance. Medical examinations required by volunteers who work with children will no longer be covered.

Subsidy regulations often require parents to provide a doctor's note if their child is absent from day care for a certain period. Failure to produce this documentation can result in a parent losing her subsidy. These parents, the ones with the least resources, will now be required to pay for these notes.

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This is not merely a matter of money. Bill 50 is endangering the health of children and staff in child care programs. Parents and staff will be less likely to report infectious illness to their program, thereby raising the risk of exposure to others. As a result, programs will be less able to warn staff and parents that cases of infectious illness have been reported and to be on the lookout for

the symptoms. This legislation is opening the door to epidemics of infectious illnesses sweeping through child care programs.

There are economic consequences for child care programs as well which will be passed on to parents and other ministries funding child care. Staff will, quite rightly, put pressure on parent boards to pay the cost of work-related doctors' visits. Health care benefit premiums will rise to cover the costs of medical visits not covered by the province's health plan. There is a certain irony here since programs and parents, in attempting to comply with the rules and regulations of one ministry, will be charged for their compliance by another government ministry.

The Ontario Coalition for Better Child Care urges this committee to review the amendments requiring third-party billing with the view to maintaining health care coverage (a) to preserve health standards, particularly in community programs serving children, and (b) when the requirements are dictated by federal, provincial or local legislation.

The Chair: Thank you very much for your presentation. We'll move to questions.

Mrs Sullivan: Once again, this is a very useful presentation because it's the first we have had from groups which are concerned about the impact that a revised Bill 50 will have, not only on service delivery but on the cost of that delivery. We had asked last week, in the first week of hearings on this bill, if the ministry could provide us with a list of all those third-party-request situations which might be impacted by changes that are proposed in this bill. That list has so far not become available. Is it available today?

Mr Wessenger: Perhaps I should give some further clarification with respect to the presentation made. As I understand it, the items listed in the presentation are presently not covered by the health insurance system and it would be, in effect, the parents' responsibility to cover that cost under our existing system. There has been no decision made to this stage to transfer that liability from the parents to the child care programs.

Ms McCuaig: That's not the point that is being made here. The point that is being made here is that programs, the local health care authorities and the child care programs operating in compliance with the local health care authorities, require parents and/or staff to provide doctors' notes before they re-enter a program. So if the child has been out because of an illness, the program, operating in compliance with the local health authority, which in turn operates under the Day Nurseries Act, would have the right to require a doctor's note. Right now, those doctors' notes are paid for under the province's health care plan; parents are not being charged for taking their children to the doctors for these purposes. Our fear is that, under Bill 50, that becomes a danger.

Mr Wessenger: Perhaps I'll ask someone from the ministry to respond to that, because if I've given incorrect information here—

The Chair: As Chair, I just want to be clear. There was also a request about a list.

Mr Wessinger: I think I've indicated that no decisions have been made yet with respect to the matter of the list.

Mrs Sullivan: The importance of the list was made quite clear. There are many areas: The Education Act has specific regulations which require certain health care procedures to be undertaken; the Day Nurseries Act; there are regulations with respect to people who deal in food safety handling. There are regulations in many other areas as well with respect to health care, such as the Nursing Homes Act.

What we want to know and what we have requested quite specifically is all of those regulations now existing that require some form of health inspection. In the past, until December 1992, those inspections, those physical examinations were covered under OHIP. They were not included necessarily as part of the Canada Health Act or under the OHIP list, but by tradition they had been covered. That cutoff has been made. What this bill will do is introduce a new mechanism for the collecting of those fees.

What I hear the coalition for child care saying is: "Who's going to pay? Is it going to be the staff, the centre, the parents or the ministry, if those regulations aren't changed?" We want to see what specific regulations and what specific facilities are being contemplated by the government with respect to this section of the act. If it's not the Day Nurseries Act that you're thinking of changing, then that answers many of the questions the presenters have raised today.

The Chair: The parliamentary assistant.

Mr Wessinger: I will ask counsel to indicate what the situation is at present.

The Chair: Would you mind just introducing yourself for Hansard?

Mr Frank Williams: I'm Frank Williams. I'm a counsel with the Ministry of Health, legal branch. Some of the comments that were made are fair comments to the extent that one of the things we did identify early on when we were drafting these motions was exactly the sort of thing you're talking about now. In fact, there is a whole host of other regulations and statutes that would require third-party services to be provided in various situations.

One of the things that we committed to do with the OMA was to examine all those regulations and statutes, and we're still trying to identify all of them, before March 1994 and exactly identify how we're going to address some of these third-party services. Some might well be services that, after close examination, would no longer be required to be provided.

In fact, one of the clauses in the draft motion, clause (c), where we refer to something that's prescribed as a third-party service was intentionally put in the motion to address this exact issue, so that we give ourselves the ability to both consult with other ministries and other service providers as to whether or not whether these should be added as third-party services, in addition to the list of third-party services that we've already identified as being uninsured services in the present regulations.

Ms McCuaig: I'd like the committee to keep in mind the way this plays down on the floor of a child care program. Right now, when a parent has been told a child is sick, he takes the child to the doctor. The doctor says, "You have chickenpox," or whatever the infectious illness is. The parent comes back to the program and says: "Johnny's going to be out for a couple of days. He has chickenpox."

If the requirement then is that before Johnny comes back into the program he has to have a doctor's note and that parent can't afford the fee that is associated with that doctor's note, what you're going to have is parents not disclosing to programs that their kids are sick. They're going to either put their kids back into the program—there's already pressure on parents to do that because they can't be away from their jobs. They get pressure from their employers and they try very hard to get sick kids back into programs. What you're doing is putting an extra cost on top of what they're losing in terms of lost wages and what you're opening the door to is to having parents not be honest with their child's program about their child's health if there is a cost associated with it.

Mrs Yvonne O'Neill (Ottawa-Rideau): I just wanted to say, Cheryl and Kerry, that we really did discuss this at great length. You may want to look at the Hansard of the first couple of days. What I took from the discussion, and of course today it's a little different, is that we immediately go to your final steps: that the individual isn't going to, that we're really out to get employers. I am no doubt paraphrasing what I heard, but I thought that we would directly go to parent boards and health care benefit programs. But of course we know how that affects you as well because of the lack of subsidies. So the air is very unclear around this one, and after today's notice I think it's even more unclear because we really don't know what the intent of this is or what acts are going to be affected. That's why we wanted the list. But as you can see, it's not happening at the moment. Your concerns are before us.

1720

The Chair: The parliamentary assistant had some further clarifications.

Mr Wessinger: Yes, I think we have some further clarification which may put this matter hopefully to rest. Mr Williams.

Mr Williams: The comments I was making were very general comments. It wasn't necessarily directed at your particular situation. But I point out that paragraph 1.2 of regulation 785/92, which was the regulation that the government passed last year identifying which were insured and which were non-insured services for the purposes of the particular exercise that we're going through, identified that a return to a day care or preschool program after a temporary absence would not be considered a non-insured service. So that would still be something that would be covered.

It was our intention to, for the most part, adopt that regulation as being a third-party service type of situation. In any event, in the type of situation that you're talking about, or some other situation, were it to be identified, the third party would be the ministry; it wouldn't be the

parent or the day care. The person who's requesting a requirement requiring the note is, in essence, the ministry, so the ministry would be liable, not the parent or the day care. I should make that clear right up front. Even if this section was not here, that would be the situation.

Ms McCuaig: What about the case of staff who are also required after an infectious illness to produce proof?

Mr Williams: Again, that would be a regulated requirement. The third party in this case would be the ministry.

The Chair: This will have to be the last question.

Mrs Sullivan: We have just had a policy statement that has not been provided to us in the past indicating that, by example, if the Ministry of Community and Social Services requires under the Day Nurseries Act physicals for children returning to a child care situation, Comsoc would be responsible for paying for that.

That is the first time we've heard that. That has never, ever been on the table before. It is also, in my view, not on the table in terms of this bill. The bill does not contemplate the ministry being responsible for the payment.

I still want to see the list of the regulations that require health examinations before a certain event occurs as a consequence. I want a further explanation in written form of what in fact the government policy is and what went through cabinet with respect to who pays. I think that's very important. We cannot go into clause-by-clause without that information.

The Chair: I think the issue is clearly on the table. The request has been made. I want to thank the representatives.

Ms McCuaig: Could I just note one thing in relation to what Ms Sullivan was saying?

The Chair: I apologize. Just briefly, because we are tight.

Ms McCuaig: I'll make this quick. Under the Day Nurseries Act it's the local health authority that has responsibility for enforcing the health regulations and for interpreting the health regulations. It's not going to be quite so cut and dried. It's not that you're going to get a list from Comsoc saying what these requirements are, because they may be one thing in Sarnia, another thing in Timmins and another thing in Metro.

However, the local child care program still has to comply with whatever the local health authority says, because they're invested under the act to enforce it. So just for you to keep in mind when you're getting that list, it's not going to be a very clean list. We still have to live with it out here.

The Chair: Thank you. I'm sorry, can I just—

Mrs O'Neill: I just wanted to ask legal counsel if they will please give in writing to us that regulation regarding the day care exemption and the statement that the ministry would be responsible. These are very important revelations that we've just had now, especially the one about the ministry picking up the bill. We discussed this for an hour last week, and we didn't get anything like that.

The Chair: I believe that one document was in the binder that was distributed, but the other information has gone to the ministry. I'm sure they will try to provide any further documentation that's required.

CITIZENS FOR QUALITY MENTAL HEALTH CARE

The Chair: I would then like to call on the Citizens for Quality Mental Health Care, if they would be good enough to come forward.

Welcome to the committee. If you'd be good enough to introduce yourself and the members of your delegation, then please go ahead.

Ms Farida Karim: My name is Farida Karim. On my right is Phyllis Leonardi and on my left is Jackie Ramsay. I know you've been sitting in meetings for days and days, but I really want you to listen to what we're saying. Try to put aside your prejudices or preconceived ideas about things and just listen to our words.

We represent the Toronto and Ottawa chapters of Citizens for Quality Mental Health Care. We're a patient-led and -driven organization that was formed in response to the Ministry of Health's proposed cuts to psychotherapy and psychoanalysis, not only through the introduction of Bill 50 but through earlier moves as well.

This is not the first time we have come before some of you to express our concerns. Please keep in mind also that we are the ones who are capable of speaking to you. There are many members of our group who cannot come today and are incapable of speaking in front of you, and many who fear their loss of confidentiality as patients.

We're here to address Bill 50 and its amendments. We feel that it's a very dangerous bill. We would like to see it withdrawn. Bill 50 gives arbitrary power that allows the Ministry of Health and its bureaucrats to play doctor and make medical decisions of which they are incapable and it leaves patients like us vulnerable to the whims of politicians.

By proposing these cuts, politicians and bureaucrats are telling doctors how to treat patients, and this sets a very dangerous precedent, because if bureaucrats are allowed to make decisions regarding our treatment, then they will target other patients. The decision about treatments should be made between the doctor and the patient and not by bureaucrats.

Now, we realize that health care expenditures are of great concern to all of us. However, we have shown you in several of our documents—and I believe you have two in front of you today—that cutting mental health care only increases costs in other areas of the medical budget, such as hospitalization and increased visits to other doctors.

How can we be expected to believe that Bill 50 and its amendments won't be used against us? No one is listening to us. How can politicians determine, without any knowledge of the treatment and the success rate of psychoanalysis and psychotherapy, the maximum number of treatments that are medically necessary?

Ruth Grier, the Minister of Health, has informed our group that she would actually never implement the restriction of services outlined in Bill 50. But we have to ask you: Why then does the NDP government need this

gun-to-the-head type of approach that frightens both doctors and patients?

I'm just going to put my script aside for a minute. I'm in psychoanalysis. I chose to pursue it. The options for me aren't viable. I don't want to be medicated, I don't want to be hospitalized, and for me this treatment works. I'm so frustrated and angry that I have to miss work to come here today. You are probing into something that is so highly personal and confidential, and I wonder why somebody started this rampage against mental health care patients. We wonder if some of you people just wanted to see who would come out of the woodwork.

Well, I've come out of the woodwork, and I am a brown-skinned woman who has experienced prejudice living in this province, and I must say that the NDP government is giving me a fine dose of a bit more. I just want to caution the government that discrimination towards mental health care patients and the process can only be based on fear and lack of understanding.

Now I want to pass you over to my colleague Jackie Ramsay.

Ms Jackie Ramsay: In early 1992 patients were aware of a government list of cosmetic items to be deinsured. Psychoanalysis was on that list and later psychotherapy was added.

Our group has met on numerous occasions with MPPs, bureaucrats and Ministry of Health officials and we have appeared in newspapers, as you can see here—lots of them—on television and radio and have been forced to expose our painful personal histories and risk our dignity and self-respect.

Our members have mailed thousands of letters, postcards, signed petitions in protest to the proposed threat of deinsuring. In the meantime, we have also answered approximately 25 telephone calls per day from frightened, distressed, traumatized patients, some of whom can't even finish their conversations with me. They just go to pieces on the phone.

1730

Does a patient with breast cancer have to come here and undo her blouse to show the scar where her breast once was? In essence, that's what I am being forced to do here, and so is Farida and so is Phyllis. It disgusts me, frankly.

Most of the patients in psychotherapy and psychoanalysis are low-income earners, and 60% of patients are women. We have been victimized and discriminated against by an unfeeling, uninformed, prejudiced NDP government. This political process is harming individuals who are seeking treatment for trauma, severe childhood abuse and incest, among a whole other load of things. With our treatments, we are able to function and lead productive lives that include working, supporting ourselves, our families, and paying taxes.

Ruth Grier and others in the NDP have said they do not have the studies that show the efficacy and high rate of success of these treatments. You know these studies are available, so we wonder in horror how the government can terminate these treatments, because limiting them means terminating them basically.

Again, no one is listening. How many more petitions, letters, postcards, committees do you need? How many more politicians do we need to meet with and how many more insults do we have to endure? How many more times do we have to personally expose ourselves to get the message across?

I'd also like to add that prior to the delisting list, prior to Bill 50, my therapy was a safe, predictable place where I was dealing with my crippling depression and my wish to die. My rheumatoid arthritis, my asthma, my eczema were under control at that time. Now that I am in constant fear of losing my treatment, I am unable to focus on the issues of my past that are basically ruining my life. I am constantly sick and run down. I require frequent cortisone shots for my rheumatoid arthritis that keeps flaring up, and I am now on steroid inhalers to keep my asthma under control.

These are all specialists I have to see as well, which costs OHIP a lot of money as well. I mean, it's basic.

Who's going to pay the mortgage when I am unable to work any more, be it my psychological issues or my physical issues? The delistings in Bill 50 are already endangering my health and my life, and they haven't even been implemented yet.

Ms Phyllis Leonardi: This has been a tough battle. Since March 1992 when analysis and psychotherapy were put on the delisting list, we have been insulted by members of the NDP government who have told us to go on medication; by NDP bureaucrats who have suggested that we see our priest, try hypnotherapy once a month, that we are the "worried well." One bureaucrat hesitated to meet with us because he "did not want a bunch of psychos" in his office. We have been called "rich, bored housewives."

Over the past two years we have been told many conflicting reasons as to why the government proposes to deinsure and/or limit psychoanalysis and psychotherapy. Why these treatments have been targeted as cost-saving mechanisms is beyond us. We can only assume that it comes down to prejudice and discrimination against a vulnerable group of patients never expected to fight back.

No money will be saved. In May 1993 a government document stated that \$26 million would be saved by limiting psychotherapy and psychoanalysis. One month later the government reported it would save \$42 million. No one in this government will tell us where these arbitrary numbers originated, nor can anyone tell us how the government will save any money on this issue.

As well, the NDP government leaders have misled us on numerous occasions. After written confirmation from Frances Lankin that the joint management committee had recommended that psychoanalysis and psychotherapy not be delisted, less than one year later the government went against its own recommendations when the new Minister of Health once again started the process to delist. Then Bill 50 arrived on our doorstep.

We want to know that nothing is going to happen to our treatments. Our members want this government to stop its prejudicial behaviour towards patients in psychotherapy and psychoanalysis.

The NDP government has falsely implied that all patients of psychotherapy and psychoanalysis are seen several times a day, several days a week, indefinitely. This simply is not true. The success of psychotherapy and analysis is based on the frequency and duration of treatment, but these are medical decisions between doctor and patient.

The NDP government should consider that many other democratic countries fully cover these treatments and experience the associated cost benefits in overall health care budgets. Why does the NDP government persist in trying to emulate the American health care system? If we continue on this path, we will end up with a two-tiered American system: one for the rich and one for the poor.

I'd like to say that nobody embarks on this treatment as anything other than a method of getting well when you are debilitated, usually by deep, repetitive depressions and periods of despair that might be suicidal. It is not something you can even stick with unless you need it. That's all.

The Chair: Thank you very much for coming before us. We'll move to questions, but first, on behalf of the committee members, we do appreciate the comments you've made in terms of your own personal stories and appreciate you all the more for coming because of that. We'll begin with Ms Sullivan.

Mrs Sullivan: Thank you very much. I think your organization first came to my attention around the time Frances Lankin was Minister of Health and the first list emerged. Since that time, I should tell you, Mr Chairman, that Jackie Ramsay's become a particular favourite person to drop by my office from time to time.

One of the things that has impressed me in terms of dealing with and working with your association is that the patients I see—and many of them are, as you say, not in a position where they could come before the committee in any kind of public way. We heard today an audiotape from Miss Rodrigue that I thought was useful to start this session. But one of the things that's impressed me is that as I see patients who are fighting to maintain their psychotherapy or psychoanalysis, they're people who are informed consumers. They have looked at the alternatives, they have discussed the issues with their own practitioners, frequently with their family or other close friends or with a support group or whatever. I think that's something that's commendable and I wanted to mention that.

Secondly, I think it's clear to all of us that the unease over the approach the government has taken to the potential of delisting has caused increased trauma and stress and added to the problems. I think either Dr Finnegan or Dr Weir earlier today confirmed that that was their professional feeling as well.

Our view now—and I don't know that I have any questions—is that, based on rumour, psychotherapy is no longer on either the OMA list nor the Ministry of Health list. We are committed to ensuring that it stays that way. However, once again, we want to see that list.

Mr Jim Wilson: I want to thank each of you for your presentation. I know it isn't easy to appear before a

committee like this and to expose your personal lives. You mentioned that it's been a tough battle to date, and I want to commend you also. From the early days I had with your group, before you were a group, actually, you've done just a tremendous job. You presented today one of the most articulate arguments in the short period of time you're given and your background material is tremendous, and I think you've partly won the battle. At least things are a little better—the government members are going to tell you this, anyway, when it's their turn—since we were up there doing the second reading debate. I know many of you and your group were in the galleries at the time.

But having said that, because the government will say you're probably out of the woods for a little while, we've tried to extract from the government a written commitment to that effect, because its word in the past hasn't been worth anything, on just about any issue I can think of in my three years around here. I'm going to give you a chance today to ask the parliamentary assistant directly what you would like to see, because I gather that you really don't trust, and rightly so, the government and its mutterings with respect to the fact that psychoanalysis and psychotherapy won't be delisted.

Ms Jackie Ramsay: We have it in writing and we've had it in words too from this government that our treatments wouldn't be delisted. I have two letters here from Frances Lankin stating that to different patients. That was last year, I guess. It changes every year. It seems to be the on-again, off-again government. I don't understand it.

Mr Jim Wilson: What is the date of that?

Ms Jackie Ramsay: February 1, 1993, and January 29, 1993.

Mr Jim Wilson: And yet the issue flared up again.

Ms Leonardi: Oh, certainly. I'd like to see the government pay attention to the studies that are worldwide and also here. His name is Doidge and he was even called in by Mrs Clinton to talk to them because the Americans were trying to get this complete coverage for mental health care. I know the evidence is clear through my life, my friends, my family. It saves money in the overall health care budget, believe me. I think you know that in your own lives; I don't see how you can't know that. We all know about stress, we all know about the cancer personality, we all know about the type A behaviour, which has long been accepted. I just would like the government to be sensible and go along with the studies.

Ms Karim: I just want to say that when it gets quiet, that's when it gets dangerous, because if we don't yell and shout and write letters, then we can't be assured that the government won't turn around and do it. I don't want this to be my second job. I will fight for it because I just believe so much in it, but when the Minister of Health changes, do we have to come back to you again and say hello? The facts stay the same. Ministers of Health change, but this treatment isn't changing; it is still valid and useful for us. So give us that assurance, please.

Mr Owens: I'll leave some time for the parliamentary assistant or legal counsel. I'm sure they have some

comments they would like to make.

In terms of the attitude you talk about in your brief, I find that quite disturbing. I certainly would never advocate medication for anybody. I certainly would never call anybody a rich, bored housewife, and I certainly would never call anybody a psycho and disinvite them from my office.

What I will certainly give you is a commitment on two things: Again, that I have written to the minister with respect to your issue and, secondly, that I will take this matter with respect to—you call them NDP bureaucrats; I would hesitate to call them NDP; bureaucrats perhaps, but I'm not sure about their political affiliation—that I will take this up with the minister. I don't think it's appropriate, whether it's your group or any other group, to have your issue undermined and belittled by any staff person, be they employees of the ministry or political staff, in any way, shape or form. I thank you for bringing this to the committee's attention.

The Chair: Thank you very much for coming before the committee this afternoon.

The committee, after a brief recess, will move into closed session. We will begin again tomorrow afternoon in public session at 3:30.

The committee recessed from 1743 to 1746.

MARNIE JUDGE

The Chair: Would you please come forward, Miss Judge. At your request, we are meeting in closed session. I'll just go over the understanding so you and all the members of the committee know what is going on. Your testimony is being taped and will form part of the Hansard of the record of our deliberations, but as there is no television picture, the only thing that can be heard is your voice. Does that meet with your understanding of what we are doing?

Ms Marnie Judge: Yes, that's fine.

The Chair: With that, then, I'll ask you to go ahead with your presentation. We have received from you two documents.

Ms Judge: Thank you for allowing me to appear before you in a closed session today. I'm here to discuss my concerns regarding Bill 50, in particular subsection 2(6).

I realize that this section has been deleted from the bill, according to the revised amendments. However, its initial inclusion was the cause of significant fear and anxiety to psychoanalytic patients, and the fact that it has been deleted still leaves me far from reassured.

I'm here today because I shouldn't need to be. I am here to explain why I think the government's earlier proposal to delist psychoanalysis and intensive psychotherapy was not only shortsighted but potentially destructive and devastating on a major financial and human scale. This simply should not have happened.

Over the past several months I met with many members of the government and Ministry of Health staff. In the process of these meetings it became apparent to me that the government's proposal was ill-informed and made with little understanding about who requires

psychoanalytic treatment and what the treatment entails.

According to a recent study by Dr Norman Doidge of the Clarke Institute of Psychiatry and the University of Toronto, patients requiring psychoanalysis have frequently suffered childhood traumas: 21.3% the death of a parent or sibling, 23% traumatic separations, 22.2% physical abuse and 23% sexual abuse. Another group that Dr Doidge studied are patients with severe personality disorders who require sessions three or four times a week.

The difference between supportive psychotherapy and psychoanalysis is not merely one of frequency. For some patients, an understanding of the underlying problem is the only way to alleviate their symptoms. For others, a less intensive therapy may provide all the support they need. The goal of psychoanalysis is to help the patient create a strong, healthy personality system, one with insight and one that can function independently to their full potential.

Patients in analysis have been described as the relatively healthy or the walking wounded. Perhaps it is the efficacy of analysis which allows the wounded to be walking, to be employed, to be consumers and taxpayers and to be productive members of society.

Those requiring psychoanalysis make up a small percentage of mental health expenditures. It is certainly not a treatment recommended for all. Individuals suffering from a biochemical disorder should be treated with medications, and those who would best be served by supportive psychotherapy should be so treated. But these must remain decisions based on sound clinical judgement, not based on a government protocol. You must realize that each and every patient is an individual with specific needs. Beyond the numbers and the statistics, there are real people who have been seriously affected by the proposals raised in the debates on Bill 50.

Over the past year and a half, the government has threatened to delist psychoanalysis several times. The announcement as to which services would be delisted has not been made, well beyond the stated date for its release. Patients in psychoanalysis feel great anxiety over this threat to their medically necessary treatment. Yes, there are real people who have been seriously affected by these proposals, and I would like to share with you how this proposal has affected me.

I would ask you to turn to the next page of your brief. This is my story. This appeared in the Toronto Star on Friday, May 14, 1993, as an op-ed piece:

"The government of Ontario [is] seriously considering removing psychoanalysis from its list of insurable services. I have been in psychoanalysis for one year and can honestly say that it has saved my life.

"I am...married with young children, and attend university in an honours program. Two of my children have special needs that require additional attention and support. I am an active member of my children's parent-teacher association, a leader of a church committee, and a volunteer facilitator in a parenting support group.

"People see me as active, capable and confident, a supportive friend and a loving wife and mother. What most people don't see or know is the person behind the

mask, the one with a history of mental illness.

"In my early years I suffered sexual abuse at the hands of my father during my mother's prolonged absences due to her mental illness. As a result, I have had a history of depression for as long as I can remember. I was in treatment for several years with two general psychiatrists, who prescribed various tranquilizers and anti-depressants.

"My mental health necessitated three hospitalizations, including one after a serious suicide attempt. I attribute my feelings of despair, which arose at this point, to the merely supportive nature of the therapy. For someone with my history, this was clearly inadequate. There was no significant improvement in my condition and life became unbearable.

"After the suicide attempt, my psychiatrist terminated my treatment because he felt he had insufficient skills to continue working with me. A physician referred me to a psychoanalyst, with whom I have been in treatment.

"Analysis is very hard work, an ongoing process that takes place day by day. I realize that analysis is a long-term commitment of time, energy and health care resources. I believe these resources are being well spent.

"Without psychoanalysis, I might have spent the rest of my life in supportive therapy or, perhaps, I would have been medicated repeatedly.

"This would have negatively affected my ability to function productively within my family and society. Frequent hospitalizations would severely disrupt family life, tragically depriving my children of their mother just as mental illness deprived me of my mother's care.

"Perhaps the worse scenario would be a successful suicide. In this event, the health care system, although saving the cost of my care, would undoubtedly incur the cost of treatment for my husband and children. They would also have the need for additional social and educational services to help them deal with their loss.

"Through the process of psychoanalysis, I have begun to understand the dynamics of my earliest years and how they affected my life. My prior therapy, which focused on problems in daily living without addressing underlying causes, could have continued indefinitely.

"Working with a skilled psychoanalyst, I have become aware of the unconscious motivations for my emotions and behaviours. This work is painful and intense. The frequency of the sessions is vital in providing a consistent and safe environment for the difficult exploration of past traumatic experience. The goal of treatment is its eventual conclusion: The patient achieves the ability to function independently.

"I spent six years in the health care system in supportive psychotherapy without an accurate diagnosis of my condition. Through psychoanalysis, I have been correctly diagnosed with multiple personality disorder. Prevalent among victims of abuse, this disorder arises as a means to cope with the unbearable pain of their experience. Psychoanalysis is widely considered the treatment of choice for these individuals.

"I, like so many others, did not choose the traumas of my past. Psychoanalysis is helping me overcome them. This is not a cosmetic or frivolous procedure. By remov-

ing psychoanalysis from the list of insured services, the message that the Ontario government...is conveying is that mental illness is not a legitimate concern.

"In the past, we closed our eyes and ears to the knowledge that children were being physically, emotionally and sexually abused. We must acknowledge that those children are now adults who may desperately need the appropriate, intensive and effective treatment of psychoanalysis."

I chose to deal with my inner conflicts or problems in a highly effective and healthy way, by seeking appropriate psychoanalytic treatment. But imagine, if you will, that I had chosen another method of dealing with my problems.

If I acted out my problems by being sexually promiscuous without being responsible for birth control, OHIP would pay for any necessary abortions. If I acquired a sexually transmitted disease or AIDS, OHIP would pay for my treatment. If I abused alcohol or drugs, OHIP would pay for any health-related costs and rehabilitation expenses. If I engaged in reckless or dangerous driving, OHIP would pay for treatment of my injuries and the injuries inflicted on others. If I was a sexual offender myself, government-sponsored help would be available.

Studies have shown that a majority of health problems are lifestyle related, whether from smoking, alcohol consumption, overeating, lack of exercise or drug abuse. Those of us with emotional or mental illnesses did not choose our illness. Those of us in analysis are working hard to get well. Psychoanalysis is very hard and painful work. It is essential work, keeping many patients not only alive but functioning and productive.

As a woman who once felt powerless and violated in my earliest experiences with relationships of trust, I now have through psychoanalysis the opportunity to acknowledge and to understand my past, as painful as it may be.

I'm here today because I shouldn't need to be. This government-initiated threat to treatment should never have occurred.

I'm here to ensure that the effective and skilled treatment I am receiving is not denied to me. But I'm also here speaking for others. I'm here for my husband and children, my friends, colleagues and my community, who all benefit because of my improved health. I'm here for all the other patients who by the nature of their illnesses do not have a voice and cannot come forward. I'm also here for you because no one is immune from mental illness, for it touches one in three and one in eight will require treatment. Life has no guarantees.

I'm here today with the hope that you will take back to the government recommendations ensuring that in the future, health care decisions of this magnitude will be made after careful consideration by the government and the medical profession in the context of the joint management committee.

The threat of delisting psychoanalysis has hung over the heads of this patient population. I hope you have been convinced by my arguments of the medical, economic and social efficacy of keeping psychoanalysis as an insured treatment.

The Chair: Thank you very much for your submission. I know it wasn't an easy decision, but thank you for coming before the committee.

Mr Jim Wilson: Thank you very much for your presentation and for all of the work you've done on this issue over the past many months.

A frustrating time: I don't know what the solution's going to be. The government is now telling us that psychoanalysis is not on the delisting lists of either the OMA or the government, but I don't know what the long-term solution is.

I'm a little confused by the second-last paragraph in your presentation because that's sort of the status quo, ie, the government and the OMA through the joint management committee or other committees behind closed doors are making these decisions. Do you want to expand on that?

Ms Judge: I haven't been privy to what is actually happening. I don't really know. The reason I included the second-last paragraph was that I felt this was a decision that simply cannot be made by the government alone. It has to be made with input from the medical profession, whether it's within the context of the framework of the joint management committee, which is how these decisions, I believe, were handled in the past, or within some other framework.

I feel quite strongly that there needs to be more input from the people who actually perform this sort of treatment. There needs to be more input from psychiatrists and psychoanalysts. Their knowledge and their background and their skill are essential to informing these kind of decisions. It cannot be made based on gut feelings by various different government members.

1800

Mr Jim Wilson: You raise a very good point there because the government will tell us it's through the OMA agreement, ie, Bill 50, that these decisions will be made. I guess you raise part of the problem, which is that even within the OMA the psychiatrists, until more recently, didn't have a very strong voice and weren't necessarily at the table, is my understanding, until more recently, and until really you and others like you made it a public issue. I was of the very strong feeling, as of course you were and perhaps still are, that we're not out of the woods yet on this.

Ms Judge: No.

Mr Jim Wilson: What about public input? Some presenters have suggested that perhaps yes, they can make up their lists, but at some point that should go to a full public airing before the government decides.

Ms Judge: I believe there should be public input, and I'm a member of the public, but there is a problem in that too, because people perceive the patients who are in psychoanalysis as sort of Woody Allens, I suppose. People don't really know what takes place in psychoanalysis. Many general physicians do not know what takes place in psychoanalysis.

When I spoke with members of the Ministry of Health and various members of the government over the past several months, people would say to me, "Who performs

your psychoanalysis, your family doctor?" It's not something that people really have a thorough understanding about, so it's quite difficult to think that members of the public will have a say or have a final say or have a significant input into these kinds of decisions, just like I certainly couldn't inform decisions regarding cardiac surgery or cancer treatments. These are decisions that have to be made by people who are skilful and knowledgeable in that particular area.

Mr Jim Wilson: If I'm correct then, it wouldn't serve any useful purpose to necessarily put these treatments out to popularity contests, but—

Ms Judge: Well, it's hard, because patients aren't going to come forward. I'm here, and this is very, very difficult for me, and at great cost, and I'm sure the other people who came forward who are patients were also here with great difficulty, but most patients are not going to come forward. They're not.

Mr Jim Wilson: But essentially you're saying that if the government, or whoever takes the decision—as long as it's based on good academic research and we're provided with that, you could understand that.

Ms Judge: Absolutely, yes.

The Chair: I have Mr Hope and Ms Sullivan and we'll continue until we finish with their two questions.

Ms Judge: Okay.

Mr Hope: First of all, I apologize for being late for the presentation. I thought he said a few minutes and it would allow me enough time for a cigarette.

I want to ask you specific questions, being as we're in closed session. Once you discovered what had happened in your life and you discovered the problem, has there been a care plan established talking of an outcome, like once you've done the discovery aspect and found out where the actual problems are and what had happened in your life? Because I have a constituent in the same position you are in and she said it took a long time to find the discovery of what actually went on. It was being blocked out of her mind for so long, and eventually it did come out. But my question would be, has there then been a care plan drafted to say what projected outcomes you're hoping to achieve between yourself and your doctor?

Ms Judge: Psychoanalysis doesn't work that way, because it's a relationship. The treatment takes place within the context of a relationship, and the relationship is the tool that the psychoanalyst and the patient use. Well, the relationship is a tool that the psychoanalyst uses. So you can't really draft a care plan at the beginning, because things change. You never know what's going to be around the next curve of the road and you never know what repressed memory may come up next week or tomorrow or a month from now. Obviously you're going to have to just go with it.

As far as a proposed outcome is concerned, hopefully it's some kind of integration and recovery of painful memories, and understanding them and putting them in their place and going on from there.

Mr Hope: But when I'm talking about a plan—and I know what you're saying. As you start to talk about it, the mind starts to open up and allow you to start talking

about it. Yes, there will be curves in every road. It's not a clear-cut plan. My understanding through this individual is that there is a simulated plan of how to try to achieve the overall outcome, I guess, which is to try to understand what actually happened and then to try to then become—you're using the words "productive in society." It's not that, because she is very productive in our society, but it's just trying to get the outcome of getting over this and getting on with it. I know that what you're talking about is that there is every curve that will be established in the road on the way to that.

Ms Judge: I think that's a question that would be best answered if you asked one of the psychoanalysts.

Mr Hope: Okay.

Ms Judge: I'm the patient.

Mrs Sullivan: I wanted to again express the appreciation of people on the committee for your coming forward and also for the very articulate writing that you've been doing in the *Toronto Star* and other publications with respect to the threat of removal of psychoanalysis. I think we've all learned from some of the public work you've done, and that should be acknowledged.

One of the things I was interested in was your referral to Woody Allen. It seems to me that perhaps some of the prejudice associated with psychoanalysis and one of the reasons it's an easy target is the imagery that comes with the Hollywood star who's in analysis or whatever. "I saw my analyst yesterday," they said on the late-night show.

The social status issues are the ones that tend to reach the public in terms of their information, rather than the care issues. That's a quite simplistic analysis, but I find it's interesting that on two occasions this kind of therapy has come back to the table for removal from the health care system when it's been found to be medically efficacious. That's the only reason I can think of, that the glamour of Hollywood has tainted the public perception of the treatment.

I don't know if you as a patient find that when people are talking to you about it, when you are saying, "Gosh, I have to write another article or fight another fight," when you're dealing with other patients in a patient group or whatever.

Ms Judge: I'll tell you, there's still a stigma attached to being mentally ill and being in psychoanalysis. Quite frankly, as you're aware, *Marnie Judge* is not my name; it's a pseudonym I'm appearing under. Most people don't know that I'm in psychoanalysis. I wonder sometimes if one of the reasons psychoanalysis has been slotted for delisting is because patients are primarily female. I don't know. This is just a thought I have and it's not a well-educated opinion, but it is a thought that I've had: If the majority of patients in psychoanalysis were male, would it be on the table for delisting?

Mrs Sullivan: I always say that if men had the second baby and every alternate baby, there would only

be the first child, or at least the third child, I guess it would be, wouldn't it? But I don't know. Who knows if that's the rationale?

Mrs O'Neill: I just wanted to say I was surprised. I don't know whether you were here for the previous presentation—

Ms Judge: No, I wasn't.

Mrs O'Neill: —that it was only 60% of the patients who are women, because I've had 11 of my constituents write to me or come in; three of them have come in after their letters. They're all women. I do think that it's not appreciated how long it takes to get to the stage of even finding the right psychoanalyst.

Ms Judge: I spent six years in the system before I came to psychoanalysis, six years seeing general psychiatrists, being prescribed medications, being hospitalized, being told, "You have a depressive disorder that's going to continue for the rest of your life." I was not productive until I got to psychoanalysis. I'm an honour student at the university. I'm a mother of three. I'm a professional. I'm productive now, and I wasn't able to function in those capacities prior to my psychoanalysis.

Mrs O'Neill: That's the story I've been hearing, and I'm not sure too many appreciate it. I hope that what your suspicion is—that it has nothing to do with gender. This would be more destructive than ever. Let's just hope. But I'm glad you surfaced that, because certainly the patients that I've had anything to do with have all been women.

The Chair: Ms Judge, again, everyone has expressed their thanks for your coming before the committee.

Mr Hope: Just on a point, if I may ask for a little clarification, you said you spent six years in the system before you found the right one. I think that might be some of our problem, to try to filter out some of the maybe myths that are out there about it.

Ms Judge: Not the right psychoanalyst; I was in supportive psychotherapy, twice-a-week therapy, once-a-week therapy, twice-a-week therapy with antidepressants and tranquilizing medications, prior to going to psychoanalysis. Those treatments could have continued for the rest of my life. They weren't helping me. They were supporting me for the moment, but they weren't helping me understand the underlying causes of my problem. By understanding the underlying causes, I can finish with it.

One day I hope that I will be finished with my treatment and get on with my life. That's the purpose of psychoanalysis, the eventual conclusion. It's not something that continues for ever.

The Chair: Thank you very much.

Ms Judge: You're welcome; thank you.

The Chair: The committee stands adjourned until 3:30 tomorrow.

The committee adjourned at 1811.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Sullivan, Barbara (Halton Centre L) for Mr McGuinty
Wessinger, Paul (Simcoe Centre ND) for Mr O'Connor

Also taking part / Autres participants et participantes:

Ministry of Health:

 LeBlanc, Dr Eugene, executive director, negotiations secretariat, health strategies group
 Wessinger, Paul, parliamentary assistant to the minister
 Williams, Frank, deputy director, legal services

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 2 November 1993



Journal des débats (Hansard)

Mardi 2 novembre 1993

Standing committee on social development

Comité permanent des affaires sociales

Expenditure Control Plan Statute Law
Amendment Act, 1993

Loi de 1993 modifiant des lois
en ce qui concerne
le Plan de contrôle des dépenses

Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 2 November 1993

The committee met at 1533 in committee room 1.

EXPENDITURE CONTROL PLAN STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE

LE PLAN DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Projet de loi 50, Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Chair (Mr Charles Beer): Good afternoon, ladies and gentlemen. This is a session of the standing committee on social development, Tuesday, 2 November. We're here to examine Bill 50, An Act to implement the government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Chair: Our first witnesses this afternoon are representatives from the Ontario Public School Boards' Association. If you would please come forward, we would be happy to hear you. If you feel like some good Queen's Park water, just go right ahead. If you wouldn't mind just introducing the members of the delegation to the committee and for Hansard.

Ms Donna Cansfield: I'm Donna Cansfield, executive vice-president of the Ontario Public School Boards' Association. Michael Benson is the executive director of the association and Brian Conway is policy adviser.

The Chair: We all have a copy of your presentation as well, so please go ahead.

Ms Cansfield: I'll just go through and highlight some of the issues we would like to identify. We're pleased to have this opportunity to comment upon one aspect of the standing committee on social development's deliberations on Bill 50 which is of concern to the Ontario public school boards, the definition of and the impact of new changes regarding third-party services. We are concerned that the provincial government's efforts to control expenditures in the area of health care must not have a detrimental impact upon youth and children in Ontario's publicly funded schools.

A 1992 agreement between the Ministry of Health and the Ontario Medical Association made significant changes in coverage of services provided through the Ontario Health Insurance Act. The Ontario Public School Boards' Association is concerned that this agreement was reached and implemented through changes in regulations without public consultation.

The current discussion by the standing committee on social development of Bill 50 provides an opportunity to

raise some of the concerns regarding third-party services. The standing committee has before it a government motion to define third-party services. Third-party services are those services requested by parties other than the patient or physician that would no longer be covered by the Ontario health insurance plan.

As a result of the ministry's agreement with the OMA, Ontario regulation 785/92, made under the Health Insurance Act, amended regulation 552 by incorporating the substance of the agreement. Three specific impacts upon school boards arise from the regulation: admission to or continued attendance in a day care or preschool program or a school, community college, university or other educational institution or program; obtaining or continuing employment; an absence from or return to work.

School boards do require information or documentation provided by physicians or practitioners related to insured persons. This information is required in the school boards' capacities both as educational institutions and as public sector employers. We have examples for you.

Early and ongoing identification of children's learning needs: We're required under the Education Act to implement procedures for early and ongoing identification of the learning abilities and needs of pupils. The Ministry of Education and Training policy memorandum number 11 states that these procedures should continue throughout a child's school life. As a component of these procedures, many boards require that children attending for the first time should have a medical assessment before attending school. As well, medical information about pupils may be requested by school boards on such matters as allergies, medication and fitness for strenuous activities, and especially for pupils participating in athletics and field trips. This is not covered.

Subsection 2(3) of regulation 305 authorizes that where a special education identification, placement and review committee, an IPRC, "determines that a health assessment or psychological assessment, or both, of the pupil are required to enable the committee to make a correct identification or determination in respect of the pupil, and with the written permission of the parent, obtain and consider a health assessment of the pupil by a legally qualified medical practitioner." This too is not going to be covered.

Then, of course, there is home instruction. The home instruction section of regulation 298 permits a principal to arrange for home instruction "where evidence that the pupil cannot attend school is provided to the principal." This is not covered, and typically this is also a medical assessment.

Of concern of course is the tuberculin test, not only for employees of school boards but as you're well aware we've a very serious issue with immigrants and refugees where school boards now will be requiring that children under the age of 12 will have to have a TB test prior to

entrance. We're discussing immigrants and refugees. They will not be covered.

Then we of course, as employers, have the back-to-work medical certificate. For years, the provincial government has passed on to the local governments increasing financial responsibility for a wide range of services, especially in the areas of health and social services. The Ministry of Education and Training estimates—and I give you this as a conservative estimate—school board expenditures in this area, psychosocial support, which is outside of the education mandate, to be \$346.6 million for 1991 alone.

The Ontario Public School Boards' Association is opposed to further downloading of responsibilities and costs from the provincial government to school boards. I suggest that passing the buck is not restructuring.

We are concerned about the impact that changes regarding third-party services will have on children and their learning programs. We're more concerned about that than the bureaucratic production of documents. Medical assessments are required by school boards so that they can meet their responsibilities with respect to early and ongoing identification of children's needs, special education needs identification and appropriate supervision of home schooling. This issue is about fundamental rights of children to equal education opportunity.

Medical assessments constitute a vital source of information regarding the early and ongoing identification of children's learning needs and contribute to the health, safety and wellbeing of students. Information obtained through medical assessments can be used proactively to foster improvements in the school environment for the benefit of the learner.

For us, we clearly want services and documents that school boards require to be covered by OHIP, and we wish to be exempt from the legislation.

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There are equity implications to changes regarding third-party services. The decision to discontinue insurance for these medical services for children and youth may well compound inequities already in the existing educational system. School boards across Ontario are in a financial crisis. Small, northern and rural school boards in particular are unable to absorb any additional financial pressures. Inability to pay for required medical assessments will have a negative impact on the learning environment and, without access to required medical assessment, educators will not have the appropriate information to ensure that special learning needs of children and youth are met.

We are also concerned about the impact that changes regarding third-party services will have in exacerbating the increasing pressures which school boards currently face in the broader public sector. Decisions made at Queen's Park have escalated the cost of providing education in Ontario. As well, school boards have been squeezed by the social contract, the expenditure control program and cutbacks in specific program areas, such as adult and continuing education, education technology and literacy, and this is just another example of how in fact

the learner is going to be impacted once again.

We appreciate the opportunity to have the chance to make comments on Bill 50 to the standing committee on social development and we urge you to clearly consider that the changes be made so that the youth of this province are protected.

Are there any questions?

The Chair: Thank you. We have a little more time this afternoon because of some witnesses who were not able to come. If you wanted to read your recommendations into the record, I think that would be fine.

Ms Cansfield: Thank you. Yes, I would. I was trying to leave some time.

The Chair: I appreciate that.

Ms Cansfield: OPSBA recommends that in Bill 50 the definition of "third-party services" be defined and elaborated so as to minimize the negative impact on children, their learning programs, school boards and the local property taxpayers.

(1) That the definition of third-party services be amended to specifically include as an insurable service under the Ontario health insurance plan a service that is provided by a physician or practitioner in connection or partly in connection with a request or requirement made by a person or entity that information or documentation relating to an insured person be provided relating to admission to or continued attendance in a day care or preschool program or school.

(2) That the definition of third-party services be amended to specifically include as an insurable service under the Ontario health insurance plan the production or completion of a document or the transmission of information to a person other than the insured person if the document or the transmission of the information relates to admission to or continued attendance in a day care or preschool program or a school.

(3) That the definition of third-party services be amended to specifically include as an insurable service under the Ontario health insurance plan the production or completion of a document if the transmission of the document or the transmission of the information is related to obtaining or continuing employment with a day care or preschool program or a school.

(4) That the definition of third-party services be amended to specifically include as an insurable service under the Ontario health insurance plan the production or completion of a document, if the transmission of the document or the transmission of the information is related to an absence from or return to work or a day care or preschool program or a school.

I ask you to really give serious consideration to the original intent of the legislation and the fact that I do not believe that it was really intended to scoop into its understanding children. I don't really feel that anybody would be prepared to put children at risk and, in fact, that's what this will do; it will put children who are already suffering some of the inequities of the system, especially the children who are identified as special needs, at risk. It will put those children who are from immigrant or refugee families who are already in a

dysfunctional way at a greater disadvantage when we will refuse them entrance because they do not have a TB test.

The Chair: Fine. Thank you very much. We'll begin the questioning with Ms Sullivan.

Mrs Barbara Sullivan (Halton Centre): I'm particularly appreciative of your participation in the committee today. We have had one other presentation on the third-party billing issue from representatives from child care centres and day nurseries who were concerned about the question of who pays, which I think is very much a part of your report. But as well I think you've raised other issues with respect to equity in terms of service requirements and with respect to the determinants of health, which we know are fundamental to a proper health care system.

One of the surprising announcements which came yesterday was that the Ministry of Health would cover the costs of such tests in certain circumstances where the Ministry of Health required those tests. In this case it's the regulations under the Education Act that would require that tests or medical examinations be undertaken with respect to children or staff, and the expectation presumably would be that the Ministry of Education would cover those costs.

I'm wondering if you'd comment on the kind of bureaucratic snafu that would occur in comparison, say, to OHIP simply covering the matter in a routine, normal way with the physicians submitting their accounts in a normal, routine way as compared to the physician submitting the account to the patient, who submits the account to the board, who submits the account to the Ministry of Education. I think there's also a process issue here that is useful to have comment on.

Ms Cansfield: Actually, you raise a number of issues. Obviously, trying to access the Ministry of Education as an individual is virtually impossible. I think the analogy was that if you need an ambulance, do you call the Minister of Health? No, you call your local ambulance service. It's the same sort of thing.

If in fact the school board requires that a child entering needs a TB test, the last thing that parent or child needs to try and do is access the Ministry of Education in order to secure the test in order to get to the school. It obviously makes sense to do it at the local level.

The other thing is that recently it was the Ministry of Education that amended the legislation that permitted school boards in fact to demand that test because we have active TB cases in our schools. So now we have the same ministry, or the same government, that is going to prohibit what they just in fact allowed, which somehow doesn't seem to make any sense.

As I say, I truly believe that there wasn't intent to catch the children in the net, but the fact is the children are caught and there will be the inequities and they have to be resolved. To consider that the people would start phoning the Ministry of Education—and I know there's a lot of room at the Mowat Block—you'd have to set a whole floor aside just to deal with the bureaucratic nightmare that would occur if you had the Ministry of Education accessing third-party billing.

Mrs Sullivan: I'm interested that not only have you discussed in your brief the issues associated with identifying the students' individual needs, whether it's for special-education programs or assessing whether a student would have an ability to participate in a travel program or an athletic program or whatever, with the public health needs, but also the figure you obtained from the Ministry of Education and Training, which estimates that the cost of these tests or examinations which are required now for public health or education assessment is \$346.6 million. Were those costs to be transferred to the boards, which could also be where the responsibility lay, what kind of inequities would you see across the province, rich board versus poor board?

Ms Cansfield: Why we identified: The \$346.6 million are current funds already expended by school boards across the province. So this would be adding to that amount, and there are no more dollars. I don't know how many times that can be stated. If it's stated from the government's side, with its expenditure control program, there are no more dollars on the school board side as well. So of course when you look at the isolate boards and the northern boards, where they are in such extraordinary circumstances, they wouldn't even begin to be able to provide the services for a specially identified child.

In a lot of cases, children are just currently being identified with—let's take autism. It's almost like an umbrella, and they use the word just to try and get the assessment to find out what the real need for the student is. If they can't access that assessment, they don't know whether they're dealing with a behaviour problem or a learning problem.

Of course the board in the urban area has far more access by virtue of Sick Children's Hospital down the street or maybe a support service that is already existing in the school and a child goes on a waiting list, but you couldn't even begin to put that into any kind of context with a northern board, and in particular with an isolate board.

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Mrs Sullivan: I want to just in conclusion do two things. One is to congratulate OPSBA on preparing a very thorough and concise brief given extremely limited time, because we've just seen these amendments within the past week or so. Secondly, I'd like to ask the parliamentary assistant if he could clarify what the government's intention is with respect to who pays.

Mr Paul Wessinger (Simcoe Centre): Yes, if I might just indicate what the status presently is concerning third-party payment, the Ministry of Health is conducting a review of all the legislative requirements, that is both under statute and under regulations, with respect to the provision of medical certificates. That review, originally, was to be completed some time next year. Hopefully, it can be completed at an earlier stage.

I might also indicate at the moment that it has been requested by the opposition that we provide a list of the statutes and regulations which are under review, and I'd like to indicate to the opposition critic for the Liberals that hopefully next week we're going to have a list provided to the committee. It will not be a complete list.

It should be a complete list as far as the Ministry of Health is concerned, but there are many other ministries involved, so it may not be complete because of the number of ministries that have this requirement.

But we're going to provide that information, and the review will determine appropriate recommendations with respect to how to deal with the concerns, for instance, such as you've raised today.

Mr Charles Harnick (Willowdale): I'd just like to thank you very much for being here, because what you've essentially pointed out is an area of insured services that will not be available to children. It really is an impediment that is being placed in front of a family in terms of the educational opportunities a child may or may not have. Essentially, that's what I read from the brief that you've presented today.

What I wonder is if you can tell us what your experience has been in terms of other similar situations where OHIP has not been available for non-medical situations but that are parallel situations where you need to obtain, at some cost, information in order to advance a child's educational opportunities.

For instance, it comes to my mind, psychological testing, where you may have to send someone to a psychologist, where there has to be a payment made by the board to the psychologist, where there's a report prepared, where there might be a dental problem where you might have to use an outside dentist or a speech pathologist or auditory testing that might be outside of medical areas but where an expense is incurred. How difficult have those situations been in terms of dealing with those extra costs? What impediments do they create?

Ms Cansfield: It's an excellent question and actually it's a good question that will bring out an opportunity to illustrate maybe some of the inequities in the system.

Recently, as you've heard, there was a lady in the north who was going to quit her job because of the issue around suicide with children, and that there was supposed to be some movement put into the situation by government, and it has not happened.

We have similar situations, obviously, in southern Ontario, and in the large Metropolitan area, we have children from dysfunctional families or even from functional families who go into severe depression, and we have an issue of suicide. We can't deny it. It's something that's part of the society that we have to deal with.

Certainly, as a large urban board, we have the opportunity to pull in a psychiatrist who can maybe then access, through his own personal pool, some sort of bed in a hospital wing to help that child, that dysfunctional youth. That isn't there in the north, because they don't have the psychologist or the psychiatrist to begin with. So you can already see some of the inequities. The cost of that psychologist is part of this \$346.6 million.

The other is, you get into the issues around social workers. The number of children who take early excused leaving from school—SALC, that is, supervised alternative learning centre, or SALEP, that is, supervised alternative learning for excused pupils—the attendance and counselling that's required for that and the social

work is to deal with dysfunctional families.

There is a recent statistic that will tell you that a single-parent family typically has a higher risk of a dysfunctional family and/or children with disabilities, because it tends to separate families. So here you are, you've got a parent who is single with a child with special needs and you're placing another burden on that individual by virtue of the fact that you're now going to say, "You have to pay for those assessments that we might demand in order to try to provide the necessary schooling for the child." It is another impediment.

The fact is, the boards are having to prioritize themselves and say, "We can only do so much with what we've got." How do you deny a child? How do you in good conscience deny a child whom you say is your future? "Education is the future, the children are the future, except, excuse me, we'll throw these bricks in your path and you may never get to your future." My position is, put your money where your mouth is. If you believe in children, you believe in children.

Mr Harnick: Do I have another moment?

The Chair: You have a supplementary, yes.

Mr Harnick: Am I wrong in categorizing this as really user fees on children? Is that what we're talking about here, user fees being imposed on children so that they can continue their education?

Ms Cansfield: Certainly it could be categorized that way. I would like to think, in all fairness, that it was never the intent of the legislation to capture the children. I think they fell through the crack. Maybe I'm wrong. I certainly read that regulation and it hurt a little, because it identified school boards, but in fairness, the actual legislation did not. Of course it's a user fee. You could find another name for it, but it is. It's putting in the path—

Mr Harnick: Parental contribution.

Ms Cansfield: All right, parental contribution would do. I really don't believe that it was intended to come out that way. I can't in my heart believe that.

Mr Stephen Owens (Scarborough Centre): Just a very, very quick question. I think you're absolutely right that it's certainly not intended to disadvantage children or anybody else for that matter. In terms of employers requesting medical notes for disciplinary purposes etc, this certainly falls under that bailiwick.

I'm sorry I missed the oral part of your presentation but I did read through your recommendations and I'm a little bit concerned that it's your view that children will be denied psychological services, that they will be denied testing as a result of this bill going through.

I'm sorry, but I don't see it that way. Maybe I missed your reasoning as to why your association feels that children are going to be denied. Maybe you weren't here yesterday, I don't think you were, but the ministry and the parliamentary assistant indicated that the ministry will be the payor of these costs.

Mrs Sullivan: We need a clarification.

Mr Owens: It's a matter of clarification. Maybe you can explain to me why in your view you feel that

children will be disadvantaged.

The Chair: Mr Owens, could I ask the parliamentary assistant? He just wants to make a clarification about what he said yesterday.

Mr Wessenger: I think we should clarify that the review of the third-party situation is going to result in recommendations. It's going to first of all look at the requirements to see if they are necessary or not. There may have been many requirements under regulations that are no longer necessary today, in which case recommendations would be made that they would be eliminated as requirements.

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The second issue would then be to look at the question of who is the appropriate payor with respect to such a requirement. That could result in some situations—for instance, if you're getting a pilot's licence now, the situation is that the person who wants a pilot's licence pays their own costs. That would undoubtedly be the same in the future. That's an example of where the individual pays. In other instances it may be appropriate that the government pays; in other instances it may be appropriate the party requesting pays. That review will determine what the appropriate recommendation is in each instance. I hope that clarifies the situation.

Mrs Yvonne O'Neill (Ottawa-Rideau): We had a lot of discussion on this both when we began the introductory remarks by the parliamentary assistant and again yesterday.

I'd like to go back to page 3 of your brief. There are many sections of the Education Act that are "shall" and there are some that are "may," and you've highlighted both of those. I want to get some comment on that from legal counsel, through the parliamentary assistant, because what was stated yesterday was that there's a chargeback possibility from one ministry to the other, and I wonder if the operative words in these parts of the Education Act being "shall" and in other parts being "may" will have anything to do with the chargeback proposal. I also wanted to reiterate, and I think I'm correct, that the things that are at the top of page 3 could definitely change from board to board, that not every board in the province would have the same regulation, nor would every municipality.

I find that there is an incongruity in what is happening and who is going to make the determination of what is medically necessary. The medically necessary to return to a child care centre in my mind is directly related to what's medically necessary to return to school and, in some cases, for employees to return to work, depending on their setting.

What I'm suggesting is that the air seems to get murkier and murkier around this. I can understand why your boards are concerned, and we certainly understood why the coalition was disturbed yesterday. I've spent quite a bit of time thinking about this in the last 24 hours. Can I get some clarification?

Mr Wessenger: I probably can answer the last question about in whose opinion something is medically necessary. It's set right out in the regulation as being in

the opinion of the physician or practitioner, so that's who determines what is medically necessary.

Mrs O'Neill: But in some parts of the act medically necessary is "shall" and in some parts of the act medically necessary is "may."

Mr Wessenger: I will ask legal counsel to comment on that.

Mr Frank Williams: Which statute are you talking about? The Education Act?

Mrs O'Neill: Right. I'm talking about when we have home instruction, for instance, it's a "may" require. When we have the IPRC system, it's a "shall." All through the Education Act there are shalls and mays, and medically necessary requirements are in all of those. I don't know who's going to eventually say a shall will become a may or a may become a shall in the Education Act.

Mr Williams: I can't comment. I haven't read the Education Act in any great depth, but it would be premature for me to comment before the review has been made as to what the determination is going to be, but certainly it's not going to hinge on whether it's a shall or a may. If there's a third-party service in any way, shape or form, we'll look at it and we'll be examining it.

I think it's also fair to say there are certain situations now where there are chargebacks to government. WCB is probably a good example where we pay for it and we charge them back and they reimburse us. There are certain situations now where the government in fact does pay as a third-party requester.

Ms Cansfield: If I may, I'd like to add into your deliberations that as you are deinstitutionalizing the children and putting children back into the community in an integrated service, or you hope to, children who have been historically considered very high-risk for a variety of emotional behaviour and educational needs, there are no shalls or maybes there. It's not grey. These children must have that kind of assessment.

Then to add to your complications in your deliberations, typically governments use these things with regard to grants. What about those school boards who do not receive grants and who in fact have been paying for those chargebacks wholeheartedly because they believe in the needs of children or youth? Possibly next year, because of the social contract, I also suggest there will be more boards in that kind of situation where they also will have to be prioritizing as to what they cannot do. There is a need to maybe fully investigate the act under special education and the needs of the children, where there is no question that they must have these in order to be able to provide the service. If you have a multiple-handicapped child, developmentally, physically, behaviourally, there are no grey areas; the children have to have assessments and they have to have them on an ongoing basis. Who pays?

The Chair: Mr Martin. I don't mean Mr Martin pays, but he has the next question. I would remind you, Mr Martin, if you wish to make that suggestion to pay, I'm sure it would be accepted.

Mr Tony Martin (Sault Ste Marie): Can I talk to my wife first?

I think it's really valuable that you come forward and raise the red flags you do re this whole question. It's a very difficult exercise we go through as we try to manage the fiscal reality in front of us today. We need to do it together in partnership because, as I've seen through the discussion that I've watched over the last few days, this is a complicated issue, and the more we get into it the more complicated it gets. We'll only get to a bottom line that is manageable if we work cooperatively.

You made some comments, though, that brought me to a question. I come from the north, and you mentioned the issue of children and suicide. I hope you weren't suggesting that some policy or some initiative or direction of this government is what's getting in the way of some of the folks who live in northern Ontario getting the kind of psychiatric care they need, particularly children and where it concerns the possibility of suicide. We're trying every which way but loose to get psychiatrists to go up into the north, and they just aren't going. We've offered all kinds of incentives. There are underserved area programs, there are things we're trying to do, and I am personally involved the Sault in those attempts. Do you have any other suggestions about what we might do to—

Ms Cansfield: The use was an analogy; there was no intent. I recognize, as we all do, the very serious issues in the north trying to access medical care, but in fairness, if you're trying to look at issues in a fair and equitable way, there is no question that something like this puts the north at a greater disadvantage by virtue of location geographically, if nothing else, and then also because economically the whole province is depressed. From the north, you know how serious that is, as it is here in my jurisdiction, which is Etobicoke.

I agree with you. There's the need to look at these issues realistically and to find ways and means so that, of all the people you do not prejudice, it's the children, because they are the future and you wouldn't want anything, I would think, that would stand in the way of a child receiving whatever it is they need to succeed. If it's a medical assessment, then I think we should find every way to take that bar and place it in a flat position, not in a vertical one, because that's the child who needs to succeed even more. That's where I was coming from using that analogy. We all understand most fully the issues in the north and how difficult it is to access a number of psychosocial support services.

Mr Martin: If we could get them up there, we'd gladly pay them.

The Chair: Ms Sullivan, you had a point of information, just before we end?

Mrs Sullivan: Yes. I am quite concerned with the response from the Ministry of Health, the parliamentary assistant, with respect to this particular issue. We've heard about how third-party billing can incrementally add to the inequities that exist and so on, but I am most disturbed at the evidence that the analysis, first of all, of who this section of the act would apply to has not been done; how it would apply has not been done; that there has not been the policy thinking surrounding the questions, by example, of who pays and whether there's going to be another tax load at the local ratepayer level;

whether the Ministry of Education is going to be required to pick up additional costs or if parents are going to be required to pick up additional costs.

I think we are all concerned as we're looking at this bill with the integrity of OHIP, that the requirements for payment fit not only the specifics of the Canada Health Act but as well the traditions that have grown up in our province with respect to what is medically necessary or medically efficacious. I would be very interested in seeing if the government would be willing to stand down these amendments and re-present them when the homework's done.

1610

Mr Wessinger: Perhaps Dr LeBlanc might be able to assist with something with respect to the whole question of the review.

But I might point out that the normal legislative process is that you do. If you look under all our legislation, you have the act passed and the regulations involve an extensive consultation process. If you look at, for instance, the Regulated Health Professions Act, there's an extensive consultation process and review before you come up with the regulations. I'd suggest under this bill it's the same situation. We have the legislation, and the normal process is to have your reviews and consultations done before the regulations are drafted and after the legislation is passed.

The Chair: The issue is clearly on the table. I want to thank the representatives from the public school boards association for coming in and presenting their views. As you can see, that has elicited a lot of interest and will be continued. Thank you for coming.

Ms Cansfield: Thank you very much for the opportunity. I would just like to say in closing that although the wheels of legislation will continue to roll, the children continue to grow and their needs do not change. I ask you keep the consideration of the needs of the children in mind.

Mrs O'Neill: We've just been told that the regulations are going to come after the legislation. Could we then know whether the regulation that keeps being quoted by both the parliamentary assistant and legal counsel, regulation 785/92, is not going to hold? This is referred to as the parts that are going to be exempt in this bill. Is this not going to hold? The impression I get is that there's a possibility that's going to change.

The Chair: We just have two more presentations. Could we do those and then come back to your question before we break, because we'll have time.

Mrs O'Neill: I'm patient.

ONTARIO DENTAL ASSOCIATION

The Chair: I call the representatives from the Ontario Dental Association. Welcome to the committee. Would you be good enough to introduce yourselves for the committee members and Hansard and then please go ahead with your presentation.

Ms Linda Samek: The Ontario Dental Association is pleased to have this opportunity to speak with the committee on Bill 50. I am Linda Samek, the director of professional affairs for the Ontario Dental Association.

With me is Frank Bevilacqua, our director of government relations.

Our association, the ODA, is a voluntary professional organization which represents the dentists of Ontario. Our mission is to support members in the provision of exemplary oral health services and to promote the attainment of optimal health for the people of Ontario.

One of the goals of the ODA is to improve access to dental care. We are here today because we have some concerns about the items listed in Bill 50 which will have an impact on access, patient-practitioner relationships and the ability of practitioners to maintain an efficient working environment. In our view, many of the administrative responsibilities of the Ministry of Health will be, for want of better words, downloaded to the practitioner. Such requirements clearly add to the burden of conducting a health care practice.

Ontario dentists have specific concerns about the policing requirements outlined in the revised amendment package. As we have reported previously, the ODA does not believe that health care practitioners should be responsible for ensuring that patients register for health care coverage. Similarly, we do not see the dentist as a prescribed person who would take possession of a patient's health card. Most particularly, dentists do not want to be responsible for determining whether a patient is a resident.

We are disturbed that this bill not only expects practitioners to be investigators, but also expects practitioners to report privileged and confidential information. Dentists are qualified health care providers who work with their patients in a relationship based on trust. Legislation designed to withhold funding need not invade a patient's right to privacy. We do not understand why this bill proposes to violate patient confidentiality and practitioner-patient trust.

On this point, we simply do not understand how any practitioner is expected to know if a patient is a resident. Practitioners like dentists are professionally educated and clinically trained to provide diagnostic, therapeutic, rehabilitative and preventive health services. They are not detectives, police or enforcement agents.

With respect to the reporting requirements, we would ask for clarification on the matters of voluntary reporting. In subsection 43.1(1), the prescribed person or practitioner "shall promptly report" to the general manager. The bill continues to outline the defence for delaying or failing to make a report, yet the next clause, section 43.2, refers to voluntary reporting. In this context, we don't understand if all reports are to be voluntary or if there are additional reports that are to be completed on a voluntary basis. For the record, we simply don't support mandatory reporting.

We also want to know if dentists are to be captured under the revisions to clause 45(1)(c.1). It is our understanding that the Ministry of Health and the Ontario Medical Association have entered into an agreement that is to limit the number of physicians who can bill OHIP. However, the ODA has not entered into such an agreement with the ministry.

Bill 50 continues to outline the implementation procedures regarding the agreement between the government, or the Minister of Health, and the Ontario Medical Association related to the making of regulations on numerous matters related to third-party services. We would like assurance that such regulations would not relate to the services provided by dentists.

Where any related regulations will impact upon OHIP-insured services and/or payments to dentists, the ODA must be included in the regulation-making process. In any event, the reference point for fee-for-service charges related to dentistry should be the ODA-suggested fee guide for general practitioners.

For purposes of clarification, we would like to explore this point further. For example, it is our understanding that this committee has been informed that the social contract proposals relating to the delisting of OHIP-insured services from the schedule of benefits for physicians do not affect other professions, yet general anaesthesia that supports a non-OHIP-insured dental procedure is on the list of services to be removed from the OHIP schedule of benefits.

First, you should know that the majority of dental services are not covered by OHIP. A very limited number of in-hospital surgical procedures are included in the OHIP schedule of benefits for dentists. Even then, there are additional preconditions regarding the patient's health status for some of the listed procedures. So even when patients require hospital dental care, there's no automatic OHIP coverage.

Should the ministry and the OMA agree to delist these needed general anaesthetic services, many medically compromised dental patients will be placed at a great disadvantage. Just harkening back to the presentation before us, here we're talking about children as well, and I think this is an important point for us to remember.

To ensure that patients are protected, we need to have a comprehensive consultation process. With this in mind, we recommend that where regulatory changes might impact upon the delivery of care provided by non-physician practitioner groups, these professions be specifically included in the regulation-making process.

Even if the current proposals regarding third-party services are not intended to extend to dentistry, we question the merit of establishing yet another layer of bureaucracy to determine disputes regarding third-party services. Further, we do not agree that decisions made by such a body should be binding, with no right to appeal.

Our final comment is about the first clause of the bill, designation of obligations. Are such obligations limited to the Social Contract Act or is it any obligation of the crown? In our view, the current wording is too broad and should be more focused.

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As we have stated throughout our presentation, it is not clear to us exactly which section of the bill will affect dentistry. The language is not clear with respect to which practitioner groups might be affected by Bill 50. We trust that you will be able to address our concerns through this committee process. If there is any way in which the ODA

can assist during your deliberations on Bill 50, please don't hesitate to call us.

The Chair: Thank you very much for your submission. We'll begin questioning with Mr Hope.

Mr Randy R. Hope (Chatham-Kent): First of all, as I was going through your presentation, in the first part you have a problem with the OHIP cards, questioning the whole ethics behind 43.1 and 43.2. Then on page 3 in the last paragraph, you indicate that the majority of your services are not covered by OHIP, a very limited number in hospital surgery.

I'm asking, why do you have such a problem getting at some of the fraud issues that we hear about and the allegations that are being made about abuse in the system? The first question would be, why would you have such a problem reporting? I don't see where the patient confidentiality or a patient trust relationship—if somebody is inappropriately using a card that is not theirs, where the problem would be in that trust aspect.

Number two is, why are you speaking out so fully against it when you tell me that the majority of your dental services are not covered by OHIP, and if they are, they're in hospital? The hospital came to this committee in the first place and has no problem with grabbing the cards if they're inappropriately used. I guess I have to seriously ask that question.

Ms Samek: You've raised two issues. One is that my understanding of the language says that even if there are questions of confidentiality or other legislation in place, the practitioner would be required to violate that. So we're not clear exactly what you're talking about. You don't limit it to that; you have some overriding exclusions. We don't know what those exclusions are, so that's what we're referring to.

The other one is quite frankly that it's not a matter of how many people are able to provide these services. Our people are not there to do that. They are there to provide services. They are there to work with their patients in a relationship of trust. It doesn't matter who pays the bill; they're supposed to provide quality care in an ongoing way, and we don't want the payment mechanism to become the issue for the patient-practitioner relationship. We don't want everyone running around continuously, trying to understand, "Are you in fact a bona fide OHIP card carrier?" I think that's a real issue.

Mr Hope: A lot of this information you're going to search out prior to that. Let me tell you, a lot of people in the province of Ontario do not have dental coverage and do pay for it out of their pocket, either through private insurance with their employer, or they pay directly out of their own pocket for dental services, or they're covered by a government program. There are a lot of working families who don't have it.

When you're talking about scheduled surgery, there is a process before it gets to a scheduled surgery process. When you go in to see your dentist, there's information that's required, like most surgeries. You have all these forms to fill out before even going into surgery. When you're starting with a new dentist, all this information—it's not somebody new just being dropped in your lap

whom you have to provide dental service for.

Ms Samek: There is no way that the practitioner can determine whether or not this is a resident who is a qualified, bona fide health card holder.

Mr Hope: Steve wants to go ahead.

Mr Owens: Thank you, Ms Samek and Mr Bevilacqua. We run into each other again in another health-related issue. I think your question of clarification is an interesting one, and perhaps the parliamentary assistant, at either the end of the proceedings or at this time, can clarify for the ODA where exactly the ministry views dental practitioners falling into this particular piece of legislation.

The Chair: Perhaps it would be appropriate to do that now.

Mr Wessenger: Yes. First of all, I think it should be made clear that there will be consultation before any prescribed persons are named under the legislation. So I would like to assure the dental association that there will be consultations before any regulations are passed in this regard. That's the first thing.

The second thing is, with respect to the card, it should be noted that there's not a mandatory requirement that a prescribed person or practitioner take a card. It's purely permissive. It allows the prescribed person to accept the surrender of a card. I don't know whether I've covered all the items. I think those were the two items that were raised.

With respect to the whole question of general anaesthetic for dental procedures, as I understand, a letter was written by the Ministry of Health back on May 27, 1993, that indicated that if it was necessary that patients be hospitalized in order to conduct a dental procedure, they would still be covered by OHIP. It's only if it was an elective hospitalization, as distinct from required for medical reasons.

Mr Owens: Just on a supplementary and a point of clarification: If in fact a patient is admitted to hospital for this procedure, where does the duty fall with respect to the health card? Would it fall on the practitioner in his or her office, or does it fall on the hospital admissions person at the time of admission for that procedure?

Mr Wessenger: It would apply to the hospital.

The Chair: Would you like to ask a question with respect to that clarification?

Ms Samek: I guess we're pleased to hear that, because we had heard that in the letter. But subsequent to that, we continue to see the delisting of general anaesthetic related to non-OHIP-insured dental services on both the government's list, we understand, and the OMA's list for delisted services, so we don't feel confident that this hasn't fallen between the cracks.

Mr Wessenger: I can only comment that I'm not aware of any change in that circumstance, as set out in the letter of May 27, 1993.

Mrs Sullivan: We have been asking for the list of procedures that are being recommended by both the OMA and government to be made public. That has not been done so far and we feel very strongly that this

process is an offensive one.

I would like you to talk, because we don't know what is on those lists, about the difference between oral surgery that would be considered elective in comparison to those procedures which are already included under the OHIP schedule. It seems to me that the parliamentary assistant is describing elective measures as a matter of consumer choice rather than perhaps a matter of oral health. I think the question of anaesthesia with respect to oral health care is a fundamental part of what is overall health, and that's been shown through studies over many years.

Ms Samek: I think, just to start, that we're talking in this particular instance about, perhaps, restorative services being provided to, for instance, a Down syndrome patient who may require hospitalization because of the other medically compromising situation that patient is in, so as an adjunct to that, there would be a requirement for anaesthetic services. The elective services, if you will, as has been proposed, the restorative services that would be provided, are not OHIP insured in those instances, even though the patient may be medically compromised and requires some hospital care.

There would be a number of different situations we could talk about, but that's really the one that comes to my mind first, because we're talking about special needs of a special patient population. That patient is going to require the anaesthetic, is going to require perhaps in-hospital service, but would no longer be able to have that part of it covered by OHIP because OHIP would not see that as being medically necessary because it was supporting what is deemed to be an elective service.

1630

Mrs Sullivan: I appreciate that, and I think that's useful for the record. One of the other areas you speak about is the difficulty of the professional determining whether a person is a resident or not a resident or acting on a suspicion or belief. We will be proposing amendments to that particular drafting, and I suspect the government has heard enough on that issue that it too would be doing that.

Once again, your profession, like virtually everyone else, did not know or had no notice about the third-party billing issues. Our feeling is that the sections of the act with respect to those areas are premature. The work hasn't been done and the consultation hasn't taken place.

You have a very extensive information network with respect to dental services. Do you think the services you have available could be used as any kind of model on a third-party billing process that could be put into place?

Ms Samek: We'd certainly be able to explore that with anyone who was interested. Clearly, what we heard a little earlier is that often the patient is paying. In fact, we think it's important for patients to be involved in the process of understanding what they are getting as treatment—and, by the way, there are some costs involved in that.

Really, one of the things we're here for today is clarification. If that comes today, we would certainly look forward to working with the ministry or whoever is

involved in helping us understand where we fit into this process, if there is going to be an impact for dentistry and its patients.

Mr Harnick: I just want to touch on the OHIP card aspect of this. I gather there are some services for which OHIP covers dental work that has to be done, and your concern is that if someone comes in and presents an OHIP card to a dentist, you don't want to be in the position of being the policeman or the investigator. You want to take that card at face value, correct?

Ms Samek: Yes.

Mr Harnick: The same way, if we go into a store and use our American Express or MasterCard, the store person looks at the card and runs the strip through the little machine; it's a valid card and it's in use and nobody's said anything about it, so you can assume it's a valid card. What you're saying, as I understand it, is that it's your job to look after people's dental needs and dental health, and it's the government's job to look after the validity of the cards that are out in circulation. Am I missing something here?

Ms Samek: That's pretty much what we thought we said. I like your thought of a swipe card process. If it were something that was easy for practitioners to handle in their practice, you may find there was more acceptance of this. But what I hear is that the version cards have been a mess, that there have been long delays in payments for patient services because the version has been incorrect, even though the patient assures that the version has been correct, so there are some real problems there already. If we had something that was, as you said, a swipe authorization, we may be able to look at it in a different way, but right now we see just a horrendous process in front of everyone.

Mr Harnick: What I fear is the idea that you now have to become something more in the dentist-patient relationship. You have to be the person who's going to look after the patient and you also have to be the person who investigates the patient. Quite frankly, if you want my opinion, for what it's worth, that's wrong. It's wrong for somebody to have to be in a position of on the one hand giving care to a person and on the other hand investigating them. It's the government's job to do that and it shouldn't be trying to circumvent its own obligations. I think we're on the same wave length.

The other aspect of your brief that I find very interesting is on page 4, where you say, "Many medically compromised dental patients will be placed at a great disadvantage." I suspect, knowing a little bit about health care, that there are many people who, for whatever reason, cannot undergo the basic treatment that the mainstream will undergo and need an anaesthetic to be able to have the work completed, maybe because they're too nervous, maybe because they have a blood pressure problem, maybe because they have other health problems.

Just for my own clarification, I would like to know what percentage of people would be at risk in terms of having to pay for the cost of dentally necessary treatment if anaesthetic services were taken away from what would be elective but necessary dental services.

Mr Frank Bevilacqua: I don't think we know the percentage exactly, but what causes us most concern is the issue involving the delisting of GA from insured services, simply because a large number of patients who obtain treatment are on social assistance. Many are children and they are part of CINOT, the children in need of treatment program. The problem with delisting is that if that happens, then these individuals may not necessarily be captured by the medically indicated conditions listed in the OHIP bulletin and there isn't an ability to pay by these individuals. I think that's what causes us most concern. We want to make sure that people of that nature do not fall through the cracks.

Clearly, as you indicated, it's not possible to do the work on these individuals within a dental office. It has to be done within the hospital environment.

Mr Harnick: It may help in terms of the way we have to look at these issues if we had some idea of the number of people or the percentage of patients who would be affected. I appreciate you don't have that now, but if that information could be conveyed, it may be helpful.

The Chair: Could I ask the parliamentary assistant to comment.

Mr Wessenger: I'd like to perhaps get to the crux of the situation. I understand your major concern is about the children in need of treatment program, is that correct, with respect to the general anaesthetic?

Mr Bevilacqua: It's one of the concerns.

Mr Wessenger: For instance, in the letter that was sent to the president of the association, it was indicated that those patients who currently have their uninsured dental services paid for under the children in need of treatment program administered by the ministry's public health branch will also have associated uninsured anaesthetist services paid for through the same program, so it is guaranteed that this will continue under that program.

Mr Bevilacqua: There were updates that were sent after that letter indicating that the whole thing had been on hold just because of the amount of confusion that was created. To our knowledge, there hasn't been further consultation, and all of the details have not been worked out.

There are simple, logistical issues related to that. For instance, in the CINOT schedule, I believe it only calls for six or eight units of GA. The question that immediately comes to mind is, what if a child has to be under longer than that? There are various problems with that and there were issues that needed to be resolved in that regard.

Ms Samek: Just as a follow-up, one of the other things we've had to deal with over the last little while is that the CINOT program has really been hitting its limits in different regions of the province, so there have been some severe limitations placed on how much they can do and now we're adding another burden to that. If there is going to be a way to take care of these children, we welcome that, but we caution you that we've already seen some funding problems with CINOT over the last year.

Mr Wessenger: Just for the purpose of information,

I'm wondering if you could indicate how often you would be billing OHIP; how often a dentist would be billing OHIP. Would it be very often?

Ms Samek: No. There are 6,000 dentists in Ontario; 417 of them billed OHIP in 1992. We're not talking about great numbers of dentists, we're not talking about great numbers of services. In fact, we're looking at approximately \$8 million in OHIP billings for dentistry. This is, if you will, a related service. It's not a dental service and it won't affect the dentist. It will affect the patient's ability to be able to get into that hospital. That's what we're really concerned about.

The Chair: Thank you very much for coming before the committee today. We appreciate it.

1640

PATIENTS' RIGHTS ASSOCIATION

The Chair: I call on the Patients' Rights Association, if they would be good enough to come forward.

For those whose legs have frozen, we are trying to get a little more heat in here. Yesterday we died of heat prostration; today it's the reverse.

Welcome to the committee. We're pleased you could join us this afternoon. Would you be good enough to introduce yourselves for Hansard and for the members of the committee and then please go ahead.

Mrs Anne Coy: Very well. I have a bad throat and I need a doctor. He's gone.

The Chair: Do I dare pose the question: Is there a doctor in the house?

Mrs Coy: My name is Anne Coy. I'm the president and co-founder of the Patients' Rights Association, not to be confused with parents' rights, because parents tell me they don't have any.

The Chair: That's a whole other issue. We'd better be careful.

Mrs Coy: Harry Beatty is the vice-president, and he has prepared the brief and will discuss it with you.

Our position is outlined in detail in the brief that is before you. What we have been trying to do for about 18 years, and we're not discouraged yet, is to establish the fact that the patient is a stakeholder in the health care system. I was on the public hospitals review committee and was seen to be quite radical when I said that, because the stakeholders were described as the providers of care. It's an issue of career on behalf of one part of the partnership, and life and wellbeing on the part of the other.

We are concerned, mainly in the health care system, with the avoidable medical accident not being repeated. We thought it was a noble cause. We didn't think it would take us so many years to get the idea across.

Because of the time element, I'll pass it over now to Harry Beatty.

Mr Harry Beatty: I'm going to summarize the brief rather than read it verbatim, in the interest of time.

Essentially, we have a systemic concern about the way Bill 50 and the agreement between the government and the OMA have developed. We recognize that the social contract concept is a good one, not to say a necessary

one. We recognize that this year the provincial government found itself in a very difficult fiscal position with regard to health care funding. None the less, we have major concerns about what we identify as exclusion of the public from the health care policymaking process.

Bill 50 is intended, in large part, to implement the agreement between the government and the Ontario Medical Association, although other health professional services are also affected. Under the terms of the agreement, broad health policy areas such as payment for third-party services, measures to control health care fraud, availability of physicians, delisting of OHIP services, implementation of the Consent to Treatment Act and Substitute Decisions Act, drug reform, issues relating to physician legal liability and public education initiatives are all subject to bilateral negotiations between the OMA and the government.

In our view, these go beyond economic arrangements. Essentially, what happens is that the government and the OMA are now developing the framework within which these issues will be addressed on a confidential basis, and members of the public, both individually and through their organizations, are essentially left to react to these proposals, and where there are cutbacks, to fight a rearguard action.

While again we can see the necessity for the government to arrive at some arrangement with the OMA, we wonder where in this process there will be a timely opportunity for northern and rural communities—this issue has already been addressed today—individuals who require special health services and drugs because of their illnesses or disability, groups concerned about the implications of third-party payment rules.

Are they going to be left presenting their concerns after the fact? There have been several steps taken over the last decade to give the consumer a bigger role in the health care system, but we believe this may well be a change in direction. We also do not see a commitment on the part of the government to make disclosure about the impact of Bill 50 and the agreement on the system.

We also want to address, however briefly, some of the major issues that have been raised around Bill 50 by other organizations.

Health care fraud is addressed largely in Bill 50 as a consumer-based problem, and we're not denying that that is real, but we also believe that providers are responsible for abuse in the system as well. Certainly there should be a focus on ineligible individuals not receiving services, but there should also be measures to control the unnecessary provision of services, looking at the quality of service to ensure that a lot of money isn't going into inadequate or unnecessary services, and also there should be rules around conflict of interest, for example, in referring practices of health professionals.

With regard to the health card system, it is important that the confidentiality of health care information be protected. We would be in a somewhat better position if we had comprehensive health record confidentiality legislation, as Mr Justice Krever recommended some 15 years ago. But we believe in any event that the health card system has to be looked at carefully to ensure that

confidential information about a person's health status is not released inappropriately in this process.

We have not worked out a detailed position on mandatory reporting, but we would generally support the idea of very specific legislated rules. We are concerned that the major provider groups seem to have a great deal of difficulty with interpreting these rules and believe that their members will not be able to interpret them consistently. We believe the reporting of what are identified as abuses should not be left to individual interpretation of practitioners. We also would support the concept that verification of eligibility should be the responsibility of the Ministry of Health, so far as that is feasible.

We are very concerned that patients may be refused or delayed in receiving needed health care if providers are required to have a detailed eligibility determination process in place. Think of yourself arriving at a hospital emergency department with an ill youngster and some of the anxiety it might cause if there were a lot of demands on you to produce documents and that kind of thing. In effect, we think that eligibility should be determined before the actual services are required. However, practically, I think the provider would have to play some role in ensuring that the person coming for treatment actually is who he says he is and so on.

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In the area of third-party payment we have, like other groups, concern about the Bill 50 solution. Consider the individual who requires a medical report in order to qualify for sick leave benefits or maybe to combat disciplinary proceedings. The employer is the third-party payor. If we understand Bill 50 correctly, the physician may bill the employer directly, but unless there is some guarantee, some arrangement between the employer and the physician, we would expect the choice would usually be to bill the individual patient and get paid at the time.

Now, under the act the employee in this scenario may be entitled to reimbursement from the employer. But if you put yourself in the position of the employee, would you really want to be pursuing a civil remedy against your own employer? Basically the same thing applies if the third party is an insurer providing benefits to you, or a camp that your youngster wants to go to, or a school, and you heard the presentation from the school board on this issue.

There may be other things that can be done. There are an awful lot of organizations that require medical certificates from people, and perhaps the right to request them should be addressed directly in legislation. Another idea would be to have a sort of standard form medical report so that even if organizations were requesting them, they would have to accept a standard form one rather than presenting the individual and the physician with a confusing variety of forms.

Also, in our experience, it causes a lot of pressures on the doctor-patient relationship or on the patient relationship to other health professionals, where the professionals are the de facto gatekeepers, the people who are really deciding the person's eligibility for something else.

We believe that health reports should just be that,

health assessments, and that we should not have systems where physicians in particular are deciding whether people should receive benefits from government or from insurers, where the doctor is the effective decision-maker. Essentially, we believe the Ontario Medical Association agrees with that position.

Delisting of services and drugs and the limitations on availability of physicians, which are implicit in the agreement, are clearly matters of great public concern. Again, since we don't know what is coming forward, it's hard for us to respond specifically. Clearly, there are many health care consumers who are going to be deeply concerned about losing OHIP funding or losing their drug coverage or not having sufficient numbers of appropriately qualified physicians available in their community. But we believe there may be an announcement that the limitations are made and then, to come to back to our basic concern, people will be essentially trying to rectify decisions that have already been made and where implementation is under way.

Finally, on physician liability issues, Bill 50 and the agreement that it authorizes have brought incorporation of physicians' practices to Ontario and also have continued a large subsidization of Canadian Medical Protective Association fees. The issues in this area are admittedly difficult, but basically what we are asking is that there be a review of the law in this area.

There was a major review conducted by Robert Prichard, now the president of the University of Toronto, at that time I believe the dean of the law school, which dealt with many of these issues in a comprehensive way, but it seems to have been entirely forgotten by the governments that paid for it. Certainly, there are many things in that report that will require being examined in more detail, but it would nevertheless be a good starting point.

The Chair: Thank you very much for your presentation, and we'll begin the questioning with Ms Carter.

Ms Jenny Carter (Peterborough): First of all, I'd just like to congratulate you. I think the Patients' Rights Association is a very necessary organization and I have a very great deal of sympathy with you. I think the patient has to be the centre, period. That's what it's all about.

I'd just like to hark back to the three acts, the substitute decisions, consent to treatment and advocacy, which this government has brought in, although we haven't seen it all in action yet. I believe that the motive behind those acts was to empower consumers. That's what it's all about.

The advocate is somebody who's going to listen to a person and do what that person wants. Living wills are going to be honoured. People are going to be able to make decisions in advance about the kind of treatment they will want and so on. So I think we are making progress in considering the consumer as being the centre, and we did listen to a lot of people when those bills were having hearings who were consumers and certainly gave a lot of importance to their opinions.

I am just wondering about this question of how we

make sure that there's no fraud. It was mentioned by Mr Harnick a moment ago that cards can be used in such a way that you just pop them into a machine and a bell rings or something if that card is blacklisted and is not valid. But I wondered whether you might feel it would be better to get away from that system all together.

My colleague Dr Frankford I see has left—he was here—but I know he believes very strongly, and I sympathize with him, that a system of registration would be more efficient, where each consumer was signed up, as it were, with a particular doctor who would then be responsible for whatever care they received and for the payments connected with that, or do you feel that the card is the best way to go?

Mr Beatty: Actually, Mrs Coy and I spoke briefly with Dr Frankford before coming in and he raised this possibility with us. It might be ideal, I suppose, that everybody be a member of a health service organization or something of that nature, and then they would sort of take responsibility for registration. But in fact, in our experience, many people now do not have a family doctor or any health organization they see on a regular basis, so it would require I think a very major restructuring of things to associate every individual with some particular practice or health service organization. I think that's what Dr Frankford was suggesting but, as I said, a lot of people right now don't have any health organization they're affiliated with to register at.

Mrs Sullivan: I think this is an extraordinarily good brief. I think that it provides a reality check that too frequently we're missing as we're approaching this legislation because we're offered erudite things about the philosophical impact of mandatory reporting and so on.

What you've done is bring this right down to the practical level of access to care and the mechanisms that are available to the patient with respect to receiving care and the kinds of conflicts that are set up or an unease that may be built if a patient knows, by example, that a physician is responsible for determination of their eligibility as well as for providing treatment.

I also think that some of the suggestions you have made—by example, going back to the Krever report is one that's really worthwhile looking at. We have not had anyone else before the committee to this point speak about the issue of incorporation and the issue of the CMPA fees. I think that was a very useful intervention. I wondered if you just wanted to take a minute or two to expand on some of the issues you see as problematic in a corporation or where you see that other government policy choices should be made.

1700

Mr Beatty: Frankly, we have not had a chance to look at the rules that have developed around the incorporation in other jurisdictions. The general concern, though, is that right now an individual physician is responsible for the treatment provided. As incorporation is now coming in, will that individual responsibility of the physician or other health professional for the treatment provided still be there? One reason you often have incorporation is to limit the liability of the individuals involved. It's hard to be specific, but say that several

physicians have joined together in an incorporated practice and that the individual patient is actually treated by a number of them in rotation or something of that nature. If something goes wrong, who is actually responsible? That's really the question we're raising.

Mrs Sullivan: As the issue goes along, if your organization wants to put its mind to that particular issue, we'd be very interested in hearing what you have to say. I too share your deep concern. In fact, I've indicated that I'm offended with the lack of information with respect to the delisting proposals. We have asked for the lists. We are concerned about the mechanisms that are being put into place. We feel that people have a right to know what the components of their medicare system are going to be and to participate in those decisions. We do not like this kind of bilateral arrangement. I just wanted to underline that, but we'd certainly like to hear from you again on the other issue.

Mr Harnick: You have made the statement, and I'm very impressed with it, under health card fraud that the PRA also recommends that verification of eligibility should be the responsibility of the Ministry of Health. That's a very unequivocal statement. Could you please expand on that in terms of how you see the doctor-patient relationship being changed by reporting and investigatory obligations which I, personally, don't think should be on the back of the doctor. I wonder if you can talk about that, because it may be very helpful for the committee.

Mr Beatty: I think a starting point is that when the person arrives at the doctor's office or health care facility, it's often, to some extent, an emergency or a crisis or something of that nature. The person may not be prepared to advance documentation if that is required. Also, when the consumer comes to the office, I would assume that usually this would not be the individual health professional doing it, a doctor, but it will be delegated to a secretary or receptionist or someone in that role. We have problems seeing how that can be implemented. We also have concerns that there may be mistakes made by the support staff person who is doing this. We just feel it would be better to have an automatic system so far as that can be done. Whether you can take all responsibility away from the provider, I don't know, but to the extent that could be done, it would seem to us to be better.

Really, the most fundamental reason for our concern is that the provider groups are expressing it. They're saying: "We don't know how to do it. We're concerned about what will happen. It's going to be very confusing for our members." If that's their perception, if the rules are not clear, then they're not going to be able to implement it. At the very least there should be clear rules, and I think a minimum of the verification should be at the practitioner's office.

Mr Harnick: You brought up the issue of incorporation. It may well be that the parliamentary assistant can help us out, but it was my impression that although doctors would be permitted to incorporate, in so far as their liability for negligence was concerned the incorporation would not permit them to limit their liability by incorporation. As I understand the incorporation aspect of

this, nothing will change if a doctor is negligent and is sued. If it's the group proposal that you talked about earlier, with a number of doctors working together in a group and that all may have had a hand in the negligence, my understanding is that the rules would remain the same. You'd still sue all of the doctors who might have been negligent and they can't avoid personal liability by incorporation. Am I correct about that?

The Chair: The parliamentary assistant has indicated he wants to speak to that point.

Mr Wessinger: I'd like to confirm that Mr Harnick is absolutely correct. The ability to incorporate would not in any way limit the personal liability of the physician. This is probably a standard that I assume applies to all professionals who are allowed incorporation. As well as physicians, I know it applies to proposals to incorporate with respect to lawyers, and I would assume it's a standard provision that all professionals cannot escape personal liability through the incorporation route. I'd like to assure the presenters that this will be the case here as well.

The Chair: Mr Beatty, did you wish to make any comment on that?

Mr Beatty: Simply that I didn't see any reference to it in the legislation itself.

Mr Wessinger: I don't think the legislation refers to incorporation at all. It's to be dealt with as a separate matter.

The Chair: Thank you both very much for coming before the committee this afternoon. We appreciate your presentation.

1710

SHALOM SCHACHTER

The Chair: I call our final presenter this afternoon, Mr Shalom Schachter. Mr Schachter, we have a proposed amendment that I believe you have prepared which is being circulated to members of the committee. Welcome, and please go ahead.

Mr Shalom Schachter: I'm a labour relations practitioner for a union in the health sector and therefore am affected by and deeply concerned with the provisions of Bill 50. I have some submissions with respect to both section 1 of the original bill and section 3. My primary concerns deal with section 1.

You may recall that there was some worker concern with the provisions of Bill 48, the Social Contract Act. Well, if you think that affected worker rights in any way, Bill 50 in section 1 affects worker rights in the health sector in a far more prejudicial way, because it allows the Lieutenant Governor in Council to make unenforceable any provision of a collective agreement in the health sector. There is no criterion to say, "In these circumstances, the government has an absolute ability to make unenforceable until March 31, 1996, any provision of a collective agreement in the health sector."

I suggest this is completely unnecessary if the government merely wants to make sure it can uphold its policies from Bill 48, the Social Contract Act. I suggest the provisions in the Social Contract Act itself are sufficient. But even if the government felt that Bill 50 was neces-

ary to help it implement Bill 48, there's nothing at present in section 1 that limits the power of the government to make unenforceable provisions of collective agreements only if they are inconsistent with the Social Contract Act.

I suggest that if this committee wants to try to deal with my concerns by making an amendment that would say that the power to designate obligations will not apply to obligations under the Social Contract Act or framework agreements or local agreements, that in itself will be insufficient to respond to my concerns.

The reason is twofold. First, most of the bargaining units in the health sector did not succeed in achieving local agreements with employers. The reason was not the unwillingness of the workers through their unions to enter into such agreements; the reason was the opposition of the employers, primarily the hospitals through the Ontario Hospital Association, and its direction not to enter into such agreements. So there are no local agreements or framework documents that will affect those employers, because they haven't signed on.

Second, the obligations I'm concerned about are obligations that are created by collective agreements. They are not obligations that are created by the Social Contract Act or by the sectoral framework document or local agreement. So it's insufficient to protect obligations arising under the social contract documentation; it is necessary to protect obligations arising under the collective agreement itself.

My first preference is to simply exempt provisions in or practices under a collective agreement. But to the extent that you may feel it's necessary to have Bill 50 in section 1 give some greater enforcement to Bill 48, then at least in the alternative you should protect obligations that provide employees' benefits if that union supported the health sector framework plan that was designated by the minister under the Social Contract Act.

That's my main concern. It's insufficient to respond to my concern to say that this wasn't the intention of the framers of Bill 50 and that I can rest assured that the government under Bill 50 will not make unenforceable provisions of collective agreements, because we all know that government intentions can change and governments can change. There's still a long time before March 31, 1996, and we can't leave it open to the good intentions of the present government.

There is also a section 3 in the original bill that will require the parties to interest arbitrations under the Hospital Labour Disputes Arbitration Act to pick up the costs of arbitration and to no longer have those costs assumed by the province. I have no problem with that in general, other than to express the view that there should be some consistency. If the government is going to make the parties to this type of litigation assume the entire costs of the litigation, then that should be so for all litigation. The costs of any kind of court litigation should have to be fully assumed by the parties to that litigation, the costs of both judges and clerks, and it should not just be in the field of labour relations but it should be in all forms of litigation.

But if the government is intending to pursue that, to

pursue the obligation on the parties to interest arbitration to assume the full costs, then it should not only cease this subsidy to labour relations but should also cease its other, much larger, subsidy it pays to the hospital employee relations service of the OHA. There is a sizeable grant that it gives to the OHA every year to subsidize the costs of labour relations, and it should end that grant as well.

Finally, if the parties to interest arbitration under the HLDAA are going to have to pick up the full shot, then the arbitrators who are going to be appointed to issue those decisions and to deal with those disputes should have to be approved by the parties. Right now there is a process of approval of arbitrators under the Labour Relations Act rights arbitration, and I suggest there should also be a process of approval of arbitrators under the Hospital Labour Disputes Arbitration Act, and there should be a separate advisory panel for the approval of those arbitrators.

Right now, there is a panel composed of labour and management representatives that approves persons who are on the rights arbitration panel. Because interest arbitration is a specialized field and only involves certain unions and certain employers, there should be a separate panel composed of those parties, who will then review the names of arbitrators who are put on the interest arbitration panel. Those are my submissions.

The Chair: Thank you very much for bringing those specific points forward. I think perhaps it might help in our questions and answers if we begin this time with the parliamentary assistant in responding to your proposals.

Mr Wessenger: I'd like to thank you for your presentation. I should indicate that in response to a previous delegation with respect to this concern about Bill 50 overriding collective agreements and agreements entered into under the social contract, we will be bringing forth an amendment to hopefully clarify that position. We'll certainly take your drafts into consideration in doing that amendment and assure you that we hope to put down on paper what the intention was. So you'll have that assurance.

With respect to the second point, I just might indicate that in other areas of arbitration the costs are, I understand, borne by the parties, so this really is just bringing this situation in parallel to that of other arbitration situations.

Mr Harnick: I'm somewhat new to this committee, but what you're asking for is that an obligation may not be designated if it is the subject of a collective agreement. Isn't that what the whole social contract was about, suspending collective agreements?

Mr Schachter: The Social Contract Act suspended certain portions of collective agreements. They prevented workers from enjoying increases that were supposed to take place on or after June 14, 1993, but there was nothing in the Social Contract Act that said a provision that you had before June 14, 1993, is now going to be unenforceable for any period of time. So along comes Bill 50 and it says, "If we didn't sock it to you enough under Bill 48, we're going to sock it to you 100 times harder under Bill 50."

Mr Harnick: As I understand it, and I'm not a labour lawyer so you can correct me if I'm wrong, Bill 48 went ahead and looked after the monetary provisions. It stopped any raises, essentially, even though the raises were contracted before the date of the effective operation of the social contract. Bill 50, which was the companion action, as I understand it, really looked after all of those, what I guess laymen call, fringe benefits. All of those health care fringe benefits that may have been available and that may have kicked in in subsequent years are all frozen as well. Am I right about that?

Mr Schachter: No. It goes far worse than that.

Mr Harnick: You mean it's even worse than that?

Mr Schachter: Yes. In fact, the fringe benefit freezing even takes place under Bill 48. But suppose I had a dental plan and the plan said that I will be able to go to the dentist and have the plan pick up the cost of fixing my teeth. Bill 48 says you can't have any improvement in that, but Bill 50 comes along and says if the government chooses to designate the obligation of the provision of a dental plan, you can no longer force your employer to pay the premiums under that dental plan. Bill 50 allows the government to say: "You had three weeks' vacation in your collective agreement. We designate that obligation, and you can no longer force your employer to give you three weeks' vacation." It even allows the government to designate a wage obligation. The collective agreements could say the employer has to pay you \$15 an hour. The Social Contract Act says you can't get any increases over the \$15 an hour. If a government would designate that obligation, the employer wouldn't even have to pay you the \$15 an hour, and all you'd be left with is the minimum-wage provision in the Employment Standards Act.

1720

Mr Harnick: Based on what you've seen transpire in terms of Bill 48 and Bill 50, do you seriously think that the government is going to pay any attention to this amendment? I don't mean to be disrespectful; I'm trying to play devil's advocate here. When I look at this amendment, I say to myself, "My God, this is absolutely, totally contrary to all of the things that I heard Bob Rae and Floyd Laughren talking about." It's a neat amendment, because it sort of tries to sneak it in the back door and get back a little bit of what you lost. Are you with me?

Mr Schachter: We were told by Mr Peter Warrian, who is the chief administrator under the Social Contract Act, that there was no intention by the government to designate normal obligations under collective agreements. I believe what he had to say; I believe it may well be the intention of this government not to designate these types of obligations. However, we've seen governments change their position on things in the past; we've seen this government change its position on things in the past. It may well be that next week this government may feel: "We haven't saved enough money. We haven't cut back compensation costs in the public sector enough. We have to change our intention and designate these things."

Even if this government keeps its intention and doesn't change it, its mandate will last only until September 1995. The people of Ontario may choose not to give this

government a renewed mandate, and a new government led by the leader of your party, who has not been known to favour worker rights, or led by Ms McLeod, who also hasn't come out in favour of worker rights, may say: "We're going to take advantage of Bill 50 that was passed by the previous government. They had no intention of going beyond Bill 48 and they were prepared to allow to stand a dental plan or a vacation provision, but we're going to take advantage of that and we're going to take that away from the workers." That's my concern and I feel it needs to be dealt with in an amendment to Bill 50.

Mr Harnick: Have you been given any indication as to whether Bob Rae is in favour of this amendment?

Mr Schachter: I have not spoken to Bob Rae about this or about many other things.

Mr Harnick: Has anybody involved with the social contract told you that this is okay?

Mr Schachter: I'm prepared to accept the assurances that were given by Mr Peter Warrian only if they are incorporated through an amendment to this bill.

Mr Hope: SEIU was before us earlier. I didn't know there was a fund out there for this labour relations process, and I find it very interesting. One of my questions to SEIU was, "How many times do you negotiate collective agreements and how many times do you arbitrate?" I wonder what the success ratio would be: 95% successful or only 10% successful in negotiating versus arbitrating.

Mr Schachter: Under the Labour Relations Act, most bargaining disputes are resolved amicably and very few result in strikes or lockouts. Unfortunately, under the provisions of the Hospital Labour Disputes Arbitration Act, the right to strike is removed and that makes it a lot more difficult for a group of workers to get the employer to take bargaining proposals seriously, so there are a fair number of arbitrations under the Hospital Labour Disputes Arbitration Act. I'm pleased to say that in the hospital sector, recently there have been a large number of settlements without having to resort to interest arbitration, but there have been a very large number of resorts to interest arbitration.

Mr Hope: With this labour-management fund—and I guess I'm going to look into finding out how much money it is—what is the goal and the objective of this labour-management fund, in your opinion?

Mr Schachter: I'm not sure which fund you're talking about.

Mr Hope: The one that you indicated earlier.

Mr Schachter: Right now, arbitrators or the boards of arbitration have their fees assumed by the government, and I'm not sure under which vote of the Legislature that happens, but that's what happens, and along comes section 3 and says the government and the people of Ontario will no longer pay for the costs of interest arbitration; the parties themselves will have to. I don't know how much the total bills have been in any particular year, and I'm not bothered by the obligation of the parties to assume that in the future. I was just pointing out, why should arbitration be different from other points

of litigation? Why should the people of Ontario only pay for the cost of judges and not pay for the cost of arbitrators? If the parties to an arbitration are going to assume the cost of the arbitration, then should not the parties to other litigation assume the cost of judges and clerks etc?

Mr Hope: I guess this has always been in the public sector. I come from the private sector where you had the choice to strike or lockout or else the plant closes. Those are your choices. I guess in the public sector you have binding arbitration. I can imagine some of us in the private sector would've loved that opportunity because we wouldn't have faced wage roll-backs and stuff by that time.

I guess where I'm trying to get a balance is it takes, in my opinion, any idiot to go to an arbitrator, but it takes a negotiator, an intelligent individual, to collectively negotiate collective agreements. I'm just wondering, how do you make both sides—because even in my own area, hospital workers are affected because the hospital association refused to accept the terms of the social contract, and now those workers will be victims. Now some of the hospitals are saying, "Please, Floyd Laughren, do something to protect these workers," when it was their own association that rebutted the process.

I'm trying to find a way to create a better labour-management relationship. You talk about the cost of arbitration. The one way to eliminate that cost of arbitration is not to go to arbitration and start to negotiate the process.

Mr Schachter: That's nice and fine, but what happens if the other side is unwilling to negotiate properly? Under HLDAA, you cannot resort to economic sanctions. But one of the things this government and previous governments have done that can be changed: Right now, the people of Ontario subsidize the cost of litigation in labour relations for public sector employers through the OHA. There are in the area of millions of dollars—I don't know if it's \$4 million or \$7 million or some figure in the millions of dollars—that the people of Ontario pay to the Ontario Hospital Association to subsidize its labour relations costs. I don't see why the government should continue to do that.

The Chair: A final question.

Mr Sullivan: Just as an observation, I would suspect that any union that's going into collective bargaining over the next period of time that has been affected by the social contract would have as its first item on the agenda an attempt to reach an agreement that pre-June 14, 1993, obligations are honoured. One of the issues that has become a matter before this committee is with respect to what constitutes an agreement. A non-unionized worker, by example, would not have an agreement as it appears in this act. An agreement in this bill is not defined. If the parties or one of the parties to the social contract did not sign, is there an agreement if fail-safe is kicked in?

The parliamentary assistant indicated to us that there would be amendments, I presume with respect to subsection 1(2.1) of the bill. I wonder if he could tell us the direction those amendments will be taking.

Mr Wessenger: I think I'll probably have to ask

counsel to clarify this since I haven't seen the draft.

Mr Williams: Certainly, as I indicated last time when SEIU appeared, we'd be addressing their concerns, and Mr Schachter's as well. We're certainly taking both of those matters that were raised into consideration when we present further amendments to section 1.

1730

Mr Sullivan: Will you be further defining what constitutes an agreement?

Mr Williams: We'll be looking at that when we draft the amendments. I'm not saying we'll be defining it, but we'll be looking at that. If it's necessary, we will; if it's not necessary, we won't. We'll be discussing that with legislative counsel.

Mr Schachter: I might suggest that if you have unorganized workers who are concerned about this, then one answer is for them to unionize. If you would provide me with their names I will do my best to assist—

Mrs Sullivan: Many people in the health care sector have chosen to come together and belong to a union. Many other people have chosen deliberately not to. If we respect the process of voluntary association for collective bargaining and other purposes, then clearly it should be a voluntary process and their rights should be respected just as much as people who are unionized.

The Chair: I want to thank you very much, Mr Schachter, for coming before the committee and for bringing your specific proposals.

Before we adjourn, I'd like to go back to Ms O'Neill's question earlier. Given that there have been a few words exchanged since then, perhaps you'd be good enough to refresh our memory on the points you raised.

Mrs O'Neill: When we get into the third-party concerns of this bill, at least twice that I remember and perhaps on other occasions, regulation 785 and its exceptions and the medically necessary four are quoted back as concerns that are attended to. But today the parliamentary assistant said that there will be regulations developed after this bill, so now I'm beginning to wonder about the status of even these few exceptions. Even with that, there's an awful lot of interpretation possible around the regulation as it exists.

Mr Wessenger: I will respond initially and then ask counsel to pick up anything I may have missed in the explanation. I think first of all we have to look back to the principle of an insurance plan; that is, it's the plan that determines what its obligations are and not the third party. We don't delegate to third parties to add on obligations to an insurance plan or otherwise you'd have a completely unworkable program.

Second, from the beginning of the health insurance system, third-party services have not been insured. What we've done in regulations is make exemptions to the situation where third-party services were not insured, so we've specified those areas where the plan would pick up a third-party coverage. That's been the way the whole system has been structured.

The regulation we looked at last was the most recent amendment to the third-party regulations, and what it did was clarify and specify more completely and comprehen-

sively the exceptions to the third-party exclusions. I don't have the previous one in front of me, but there's some suggestion that it was an improvement in making it more comprehensive than the previous situation.

The current legislation does not deal with the question of the exclusions. The current legislation is only designed to clarify the question of the liability for third parties. At present, normally the liability rests either with if it's picked up by OHIP as one of the exclusions or it would be covered by the patient in normal circumstances, or there might be an arrangement made. I'll just see if Frank wants to add anything to what I've said.

Mr Williams: The process we've been referring to that's going to take place now is really an entirely separate process. I guess it's resulted both through the social contract and our agreement with the OMA, which is basically identifying all existing requirements in legislation and regulation that generate third-party situations; reviewing and determining if they can be eliminated—that's really the key point—and then identifying who the payor is in consultation with each particular ministry in question.

The Chair: Mrs Sullivan, do you have a question on that?

Mrs Sullivan: Yes, I do. One of the fundamental problems is identifying those which will be included for coverage by OHIP and those which will not be included for coverage by OHIP. In many cases, and we heard one particularly good example today from the dentists, what we will see happening is that people in the Ministry of Health, perhaps without reference to those people who have expertise about the medical necessity or the efficaciousness of a particular procedure, will determine whether or not a procedure will be covered.

The example that was put before us was with respect to limiting, by example, the number of units of general anaesthetic that could be provided to a patient who is receiving oral surgery in a hospital setting. That kind of limitation is itself a delisting of a service, and the clinical judgement may be quite different from what the regulations will ultimately allow.

I think this is highly problematic, and as we go through the legislation, we need to know far more about the process: how delisted items will be identified, what clinical data are available in terms of making decisions, and who's going to be making the decisions.

Mr Wessenger: I'll probably ask counsel again to respond, but I think we should be clear that they're two separate issues. The third-party issue is separate from the delisting issue, and in this legislation we're dealing basically only with the third-party issue, not with the delisting issue. I don't know what else I can add to that. The process we're talking about, a review process, is dealing with the third-party issue which has been described today and doesn't deal with the question of delisting, which is a separate process.

Mr Williams: That's correct.

Mrs Sullivan: The third-party payor issue, though, is linked specifically to the issue of OHIP coverage with respect to children's medical service needs for the purposes of public health or for assessment with respect to their abilities to function or to require additional assistance.

By example, you can say that OHIP and medicare aren't a part of that, but I sure as heck want to know who is going to make the decisions with respect to how children are treated and who will pay for services, because in lots of communities children will not get those assessments. They will simply not be done because the board can't afford to pay or because the public health unit says, "We don't have enough money." We know, as has been described in this and other places, that there is inequity across the province already.

These two issues are fundamentally linked, whether you like it or not.

The Chair: Parliamentary assistant, do you have anything further to add?

Mr Wessenger: I'll ask counsel.

Mr Williams: I only have one comment to make, in that Bill 50 doesn't change what are now insured services and what are not insured services. The regulation we passed last year sets out what are the uninsured services. All this bill does is address the issue of liability. It doesn't address and it certainly doesn't intend to add to the list of what are uninsured services.

The Chair: We will next be moving to clause-by-clause when we come back and we'll have a further opportunity to get into that issue.

Mrs O'Neill: I'd like to know if this regulation is under review. I did not get that answer. I got a whole lot of other—I won't use any other adjectives, but I did not get whether this regulation is under review, necessarily. Are these exemptions going to be—and if they're not, are they going to be clarified? That's a straight question.

Mr Wessenger: I think it's fair to say that the whole question of third party is under review, and I suppose the decisions that are made with respect to the recommendations after looking at the whole question of third party—that could result in a new regulation being prepared. I think that's the best way to deal with it, to say yes, it could result in a new regulation after that review process is completed.

Mrs O'Neill: Okay, thanks. At least we know that.

The Chair: Just a couple of points before we adjourn. Mr Gardner informs me that we will have, before we rise on Thursday, the summary of recommendations and that will be provided to all members.

As everyone knows, we will not be sitting next week, so our next meeting will be Monday, November 15, when we will begin clause-by-clause. The committee stands adjourned until 3:30 Monday, November 15.

The committee adjourned at 1740.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Harnick, Charles (Willowdale PC) for Mr Jim Wilson
Sullivan, Barbara (Halton Centre L) for Mr McGuinty
Wessenger, Paul (Simcoe Centre ND) for Mr O'Connor

Also taking part / Autres participants et participantes:

Ministry of Health:

Wessenger, Paul, parliamentary assistant to the minister
Williams, Frank, deputy director, legal services

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Gardner, Dr Bob, assistant director, Legislative Research Service

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of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Monday 15 November 1993



**Journal
des débats
(Hansard)**

Lundi 15 novembre 1993

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

**Expenditure Control Plan Statute Law
Amendment Act, 1993**

**Loi de 1993 modifiant des lois
en ce qui concerne
le Plan de contrôle des dépenses**

Chair: Charles Beer
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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 15 November 1993

The committee met at 1559 in room 151.

EXPENDITURE CONTROL PLAN STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE

LE PLAN DE CONTRÔLE DES DÉPENSES

Consideration of Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act / Projet de loi 50, Loi visant à mettre en oeuvre le Plan de contrôle des dépenses du gouvernement et modifiant la Loi sur l'assurance-santé et la Loi sur l'arbitrage des conflits de travail dans les hôpitaux.

The Chair (Mr Charles Beer): Good afternoon, ladies and gentlemen, and welcome to the clause-by-clause hearings of the standing committee on social development. We are dealing with Bill 50, An Act to implement the Government's expenditure control plan and, in that connection, to amend the Health Insurance Act and the Hospital Labour Disputes Arbitration Act. We've had several days of hearings and we're now at clause-by-clause review of the bill.

We will begin forthwith and I will call section 1. Shall section 1 of the bill carry?

Mr Paul Wessenger (Simcoe Centre): There's an amendment that we have.

I move that section 1 of the bill be amended by adding the following subsection:

"Same

"(2.1) Despite subsection (2), this section does not apply to obligations arising under,

"(a) a collective agreement as defined in the Labour Relations Act;

"(b) a sectoral framework designated under subsection 11(1) or 36(1) of the Social Contract Act, 1993, or a local agreement implementing the sectoral framework;

"(c) an agreement made on or after June 14, 1993;

"(d) an agreement made before June 14, 1993, if a sectoral framework, a local agreement implementing the sectoral framework or another agreement made on or after June 14, 1993, by the same parties as the earlier agreement provides that this section does not apply to obligations arising under the earlier agreement."

The purpose of this amendment is to meet the concerns that were expressed with respect to agreements entered into under the social contract legislation and also collective agreements. It was raised by the presenters, and this I believe meets those concerns, because it was certainly the intention that the act only apply to specific agreements with the sectors.

The Chair: Any discussion of this amendment?

Mrs Barbara Sullivan (Halton Centre): I would like some clarification to find out for sure if it's the govern-

ment's intent that the word "designated" in clause (b) of the amendment means that in fact there may not have been an agreement but the government has said there is one. I refer specifically to the hospitals.

I would also like specifically to know where pharmacists fit in, even with this kind of an amendment. Basically, this section of the bill empowers the government not to pay existing obligations if the government so determines. This new amendment would eliminate from consideration those areas which are under the social contract. Where does that leave pharmacists?

Mr Wessenger: I will ask legal counsel to respond to that.

The Chair: Would you mind just identifying yourself for Hansard.

Mr Frank Williams: Frank Williams. I'm counsel with legal branch, Ministry of Health. The purpose of the section is to provide the government the right, if necessary, to designate obligations where there is no agreement with a particular party with respect to the expenditure control plan measures of the government vis-à-vis that particular party.

The purpose of the amendment is to make it clear that where there have been contracts entered into under the social contract or ECP, we can't override them. That's the purpose of the amendment. It also addresses the two issues, as the parliamentary assistant mentioned, that were raised during committee hearings.

Mrs Sullivan: I haven't had the answer that I'm looking for. I want to know specifically how this amendment affects hospitals and pharmacists. Hospitals did not sign the social contract, nor did pharmacists.

Mr Wessenger: I understand that the hospitals will be under the fail-safe provisions. The exemptions here would certainly not apply to hospitals, because, as I understand, they haven't had a designated sectoral framework. Is that correct? I believe so.

Mrs Sullivan: Are they designated?

Mr Wessenger: Perhaps I could ask what the status of the hospitals is. Are they a designated framework or not? I'm not certain of the answer on that one.

Mrs Sullivan: We seem to have a number of questions not answered.

Mr Wessenger: Dr LeBlanc, if you wish, just take the end of it here.

Dr Eugene LeBlanc: Eugene LeBlanc, executive director, Ministry of Health. As I heard, there were two questions. What about pharmacy? There are two answers to pharmacy.

Number one is that this is dealing with the Health Insurance Act and the pharmacists are covered under different legislation, so in that direct sense, they're not covered by these amendments.

Number two, with respect to hospitals, the sector to

which they have been assigned has already been designated. The fact that they have not signed it is not the end of the story yet. They have, for the remainder of this year, the capacity to sign on. The sectoral agreement was inclusive of hospitals even though they didn't sign, and what applies to them is being covered directly by Bill 48, so their economic circumstances are covered directly by legislation.

Mrs Sullivan: I want to again query the pharmacist issue because subsection 1(1) suggests that this section of the act applies and, in fact, this is not the Health Insurance Act in this section of the bill.

This section of the act applies to employers in the health sector within the meaning of the Social Contract Act, 1993, associations representing such employers and other providers of health services. This is not limited to the Health Insurance Act. Furthermore, pharmacists were included in the Social Contract Act as part of the health care sector as were hospitals. Hospitals did not sign; pharmacists did not sign. We know that pharmacists are going to have a hit with Bill 81. Is this another way of getting at them, is what I'm saying.

Dr LeBlanc: Pharmacists are able, if they choose to, to participate in the independent practitioners' sectoral agreement, which was also a designated agreement, and they have indicated that they so wish to negotiate inclusion.

Mr Williams: In addition, the section provides that we cannot override statutory obligation, so if there was a statutory obligation imposed by pharmacists under Bill 81, we could not override it by a designation under this act.

Mrs Sullivan: I suppose the difficulty is that in the area of pharmacy, we have a situation where the government has refused a decision or recommendation and pharmacists have been left in a situation which is clearly called limbo until Bill 81 is dealt with. You can bet there will be a fight on Bill 81.

The question with respect to hospitals is, if they were included because they are designated under your new clause (a)—or is there to be any other agreement?

Mr Wessinger: If I understand, it would appear that since there is a sectoral framework under which hospitals are covered, then the sectoral framework is one of the exemptions, and if they were to enter into an agreement on or after June 14, that would again be exempted under this clause.

1610

Mrs Sullivan: We're certain about that, are we?

Mr Wessinger: Yes.

The Chair: Any further questions on the government amendment? If not, shall the government amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

We then move on to section 2. I have two amendments to subsection 2(1), a government motion and a Liberal motion. We will begin with the government motion.

Mr Wessinger: I move that subsection 2(1) of the bill be amended by adding the following definition to

section 1 of the Health Insurance Act:

"health card" means a plan identification card issued by the general manager."

The Chair: Any comments?

Mr Wessinger: Yes. This change requires the inclusion of the definition of "health card" in accordance with the agreement between the Ontario Medical Association and the government. It also will assist the ministry with the whole question of health card fraud.

The Chair: Any questions or comments?

Mrs Sullivan: I wonder if I might comment both on the amendment which I propose to put forward as well as on the government amendment.

The Chair: I thought you might, somehow.

Mrs Sullivan: Thank you. I looked at the government amendment and I think it is useful to have a definition of "health card" in the bill and, additionally, latter sections which specifically address the ownership of the health card itself and so on.

In looking at what a health card is, it seems to me that we have been discussing for a long time the role that a health card can play in the management and analysis evaluation of the system. The government amendment would limit a health card to being a document or card which does one thing, and that is to identify the insured person, although even that isn't quite as clear in the government amendment.

We looked at various words before proposing our own amendment and started, frankly, from the position that a health card should be a document that is in a prescribed form which doesn't limit it to being just a plastic card with a strip on the back. It could become a smart card or it could become another card that takes advantage of new technology, but the form would be prescribed by regulation. We had also talked about an opportunity to include information on the card beyond the identification factors; ie, the identification of the insured person who is entitled to receive insured services.

As a consequence, having taken out several words that, after discussion with counsel, were seen to be irrelevant, we are then putting forward a proposal for an amendment which would leave us in the position of a health card being "a document in a prescribed form which is issued by the general manager." Then the prescribed form itself could refer both to the nature of the card, whether it's plastic or cardboard or a file folder or whatever—in fact, didn't somebody talk to us at one point about there being an opportunity for putting some kind of ink dye in everybody's ear or something? Anyhow, the health card could be a document in whatever form and the information would also be prescribed and would be part of the form of the card.

Frankly, I think that ours is a better amendment and I urge the government to stand its amendment down.

Mr Wessinger: Could I just have some clarification here from legislative counsel with respect to the Liberal amendment as to whether—

The Chair: Just so everybody is clear, while Ms Sullivan cannot move her amendment, it might help the

discussion if she just reads it so everyone, including those watching anxiously on television, will know what we're discussing. Ms Sullivan, without moving it, if you could just read the relevant parts.

Mrs Sullivan: Our definition of a health card would be that a "health card" means a document in a prescribed form which is issued by the general manager."

The Chair: And just so we're clear, the government amendment says "health card" means a plan identification card issued by the general manager."

Mr Wessenger: I would like to ask legislative counsel about the use of the word "document" as distinct from "card," whether legislative counsel has any recommendations with respect to that description.

The Chair: Legislative counsel? Sorry; if I could just ask you to identify yourself before—

Ms Cornelia Schuh: I'm Cornelia Schuh, deputy chief legislative counsel.

"Document," I suppose, could be something on paper or in any other visible printed form. It could perhaps also be some kind of electronic record. "Card" could also be an electronically readable card. I'm really not sure of what other differences there might be between the two.

Mr Wessenger: Basically, you'd be satisfied with either language, then?

Ms Schuh: It would really depend on what I was told you wanted the definition to accomplish.

Mr Wessenger: Do you think "document" would be a broader concept than "card," then? Is that fair to say?

Ms Schuh: Perhaps. It's a little strange to think of a wallet-size card as being a document, but there's no linguistic reason why it couldn't be described as a document. A document could also be a text that's captured on a disc.

Mr Wessenger: If I might just ask Ms Sullivan, obviously, if we were to accept the amendment, we would need a corresponding amendment to the regulation-making under the section of the act to provide authority to prescribe such a form. I assume that amendment would be accepted.

The other question I would ask legislative counsel is whether the words in the Liberal amendment, "which is issued"—would it not be perhaps clearer just to say, "health card means a document in a prescribed form issued by the general manager"?

Ms Schuh: I'm a bit confused because the wording of the Liberal motion I have before me is slightly different.

Mrs Sullivan: We have been through about six drafts.

Ms Schuh: This is the motion as actually tabled?

Mrs Sullivan: I can literally take those words out.

Ms Schuh: I'm not sure that I see any substantial difference between Mrs Sullivan's motion and Mr Wessenger's motion.

Mrs Sullivan: Mr Wessenger's motion limits the card itself to identification features. I'm suggesting that the definition of a health card should be broader.

Mr Wessenger: Could I suggest we just take out the

words "which is" and I will stand down my motion.

The Chair: So the government is going to stand down its motion. I just want to be clear: By standing it down, do you mean you are withdrawing it or do you want to come back to it?

Mr Wessenger: What I'm going to suggest is it be withdrawn after Ms Sullivan's—we've asked it be withdrawn after her motion is dealt with.

The Chair: So you would stand yours down in order to deal with Ms Sullivan's and then you—

Mr Wessenger: Withdraw.

1620

The Chair: Yes. Ms Sullivan, the government motion is stood down. If you would now move your motion. Depending on what happens to that, we'll know what will happen to the government motion.

Mrs Sullivan: I move that subsection 2(1) of the bill be amended by adding the following definition to section 1 of the Health Insurance Act:

"health card" means a document in a prescribed form which is issued by the general manager."

The Chair: Any discussion?

Mrs Dianne Cunningham (London North): Only to say that I think we would be in favour of the more open approach, not quite so narrow a description of what a health card is. I think it gives the government more flexibility in dealing with the paperwork that's required to identify oneself.

Mr Wessenger: I'll be supporting the amendment, but I'd ask that legislative counsel draft a corresponding amendment to the regulation-making section, if that could be done.

Ms Schuh: I can certainly prepare that. I should also point out that this motion has been tabled in English only. We can try to produce a French version of this motion in time for committee tomorrow, if that's acceptable to the committee.

The Chair: Is that acceptable to the committee? Yes, fine.

Mr Randy R. Hope (Chatham-Kent): Just so I'm clear what everybody's doing here, first of all, the prescribed form: We'll leave it to counsel to decide what the prescribed form would be.

Mr Wessenger: Yes.

Mr Hope: So I'm clear on that part.

The other question that I have now, at least to the French version, is, when we vote on this, does that mean that the French version is automatically accepted, or are we going to do English version and French later?

The Chair: No, your first comment, that it would be automatically accepted if we accept this. All we're doing is just the translation. Any further comment? Legislative counsel.

Ms Schuh: There's one more thing that I wanted to point out, which is that this definition of "health card" will require a regulation. Under the original government motion, it would not have been necessary to make a regulation in order to issue a health card. Under this

approach, a regulation is necessary and it is necessary to amend the regulation to make changes in the form of the card.

Mr Hope: Which now leads me to some questions. What if we were to change the planned identification to, instead of using the word "card," use "document" in that one? Would that still prescribe the changes now in the regulations? Because I'm understanding you to say that you would have to do some current changes in order to make the current system work.

Ms Schuh: No, I don't think it would be necessary to make changes to make the current system work, but once these changes were proclaimed it would be necessary to make a regulation to support the existing system and it would be necessary to make further regulatory changes if there were to be changes in the health card.

Mrs Yvonne O'Neill (Ottawa-Rideau): In support of the amendment, Mr Chairman, I think in the presentations we had, particularly from the professionals, there were definitely indications that there were further possibilities of the use of cards or some form of documentation that would plug into health care, whether it is keeping regular data on an individual's usage of the system or all of these other things.

I think what we're trying to get at here is a much broader usage, which could tie into the thing we all have been saying we are not in favour of, which is health care fraud. It also gives a prescribed form. Then everyone knows what they're dealing with, and it's in writing by regulation. Therefore, the people who are most involved and the people who will be using this will hopefully have another opportunity to have input into this regarding the best way in which it can be done. I think with that discussion focused, this amendment can't do anything but increase the effectiveness of this bill.

Mr Wessenger: I'd just like a point of clarification about the French translation. That's to be provided for information purposes only, is that correct?

The Chair: No, it—

Mr Wessenger: It doesn't slow—we could still pass this motion today.

Ms Schuh: If the committee wants to proceed in that way, you can pass this motion now and in effect trust legislative counsel to produce a French version that is appropriate. We can have it tabled tomorrow. But you're not passing an English version only. You don't need to go over the French version separately, if that's the way you wish to proceed.

The Chair: We have before us then the Liberal motion, and again, "health card" means a document in a prescribed form which is issued by the general manager."

Is there any further discussion on that amendment? If not, shall the Liberal amendment carry? All opposed? Carried.

I would then call upon the parliamentary assistant to withdraw the government amendment.

Mr Wessenger: Yes, I withdraw that motion.

The Chair: Just for the record, if you could indicate what it is you're withdrawing.

Mr Wessenger: I'm withdrawing the amendment to subsection 2(1) of the bill with respect to "health card."

The Chair: It is then withdrawn.

We move on to the government amendment to subsection 2(3.1).

Mr Wessenger: I move that section 2 of the bill be amended by adding the following subsection:

"(3.1) The act is amended by adding the following section:

"Health card

"11.1(1) A health card remains the property of the minister at all times.

"Taking possession of card

"(2) A prescribed person may take possession of a health card that is surrendered to him or her voluntarily.

"Return to general manager

"(3) On taking possession of a health card under subsection (2), the person shall return it to the general manager as soon as possible.

"Protection from liability

"(4) No proceeding for taking possession of a health card shall be commenced against a person who does so in accordance with subsection (2)."

The purpose of this, of course, is to protect from liability the prescribed person who takes the card that is voluntarily surrendered.

Mrs Sullivan: Our party has expressed reservations with respect to the provisions for taking possession of a card, in committee and in discussions with some of the health care providers, in the context of whether these kinds of policing duties are those of the health care providers, whether it's under their scope of practice if they are under a college or whether it's under their legislation if it's an independent health facility and a person acting on behalf of that facility.

We assume that this motion will go ahead, but I think we want to express our reservations about what the proper role of the professional is and whether indeed this kind of amendment and this kind of action may not add to some of the dangers that person may face.

The Chair: Any further discussion on the government amendment? If not, shall the government amendment carry? All those in favour? Opposed? Carried.

I then have an amendment proposed by the Progressive Conservatives to (3.1), I believe.

1630

Mr Wessenger: Are you sure?

The Chair: I'm not sure, so I'm just going to check.

Mr Wessenger: I think we still have the government's; 19.1 comes before 26.

The Chair: Right. We then move first to the government amendment. Go ahead, please.

Mr Wessenger: I move that section 2 of the bill be amended by adding the following subsection:

"(3.2) The act is amended by adding the following section:

"Refusal of payment

"19.1(1) Despite sections 12 and 13, the general manager shall not authorize or make a payment for insured services rendered in Ontario by a physician if,

"(a) the physician is not an eligible physician; and

"(b) the insured services are rendered on or after the day this section comes into force and before April 1, 1996.

"Same

"(2) Subsection (1) applies whether the claim for payment is submitted to the plan by the physician, by the insured person to whom the services were rendered or by any other person.

"Eligible physicians

"(3) A physician is an eligible physician for the purpose of this section if,

"(a) the physician received a degree in medicine from an Ontario university;

"(b) the physician successfully completed at least one year of post-graduate medical training in Ontario,

"(i) in an internship program accredited by the committee on accreditation of preregistration physician training programs, or

"(ii) in a residency program accredited by the College of Family Physicians of Canada or by the Royal College of Physicians and Surgeons of Canada;

"(c) the physician engaged in the practice of medicine in Ontario at any time before August 1, 1993;

"(d) before August 1, 1993, the physician was assigned or applied for a provider number or its equivalent, for use in connection with insured services rendered in Ontario;

"(e) before August 1, 1993, the physician was granted an appointment to the medical staff of a hospital in Ontario or an appointment to the teaching staff of a faculty of medicine in Ontario, and the appointment took effect on or after August 1, 1993 and before January 1, 1994;

"(f) before August 1, 1993, the physician incurred significant financial obligations in connection with the commencement of the practice of medicine in Ontario on or after August 1, 1993, and the physician engaged in the practice of medicine in Ontario before January 1, 1994; or

"(g) the physician is a member of a class of physicians that is prescribed as being eligible for the purpose of this section.

"Exception

"(4) Despite subsection (3), a physician is not an eligible physician for the purpose of this section if he or she is a member of a class of physicians that is prescribed as not being eligible under this section.

"Physician resource agreement

"(5) In subsection (6), 'physician resource agreement' means an agreement that,

"(a) is made between Ontario and one or more of,

"(i) Canada,

"(ii) a province of Canada, and

"(iii) a territory of Canada; and

"(b) meets the criteria for a physician resource agreement set out in paragraph 1.4 of schedule 3B of the '1993 Interim Agreement on Economic Arrangements' entered into by the government of Ontario and the Ontario Medical Association on August 1, 1993.

"Effect of physician resource agreement

"(6) To the extent that a physician resource agreement provides, subsection (1) does not apply to the physicians or classes of physicians specified in the agreement, on and after the date specified in the agreement (which must be later than the date the agreement is entered into) or, if no date is specified, on and after the date the agreement is entered into.

"Minister may exempt

"(7) The minister may exempt a physician or a class of physicians from the application of subsection (1), subject to such terms and conditions as the minister specifies, if in the opinion of the minister the services of the physician or the class of physicians are required,

"(a) to meet a need,

"(i) in an academic area, or

"(ii) in a medical specialty, domain of medical practice or geographic area that the minister considers to be underserved; or

"(b) to fulfil a prescribed purpose."

Mr Wessenger: The purpose of this is to try to determine the eligibility of physicians, for those who are within the province of Ontario or educated in Ontario and made arrangements to practise in Ontario, and to provide for exceptions by a prescription with the underserved areas of practice and geographically.

Mrs Sullivan: I think this is an area that we're going to want to talk about for a few minutes in terms of the clause-by-clause issues here. To a certain extent, a positive approach is being taken with respect to physician resources planning. Whether this is the appropriate way in the context of an expenditure control bill is another matter, in that it seems to me one should plan resources not only for the short but for the long term, with funding and financial arrangements being a part of that plan, rather than seeing the plan done in the context solely of restraint.

We have areas in the province, and they are not limited to northern communities, which are underserved. We have areas of the province where hospitals are now being asked by their doctors to provide additional funding, or the community is being asked to provide additional funding for emergency and on-call coverage in those situations.

It is understandable why those demands are being brought forward. In many communities, the doctor who is providing the emergency services is the only doctor on call and is having to face not only the full-day work with patients, but as well the 24-hour coverage through emergency services and other provisions. This particular amendment addresses only the physician resources issues and only addresses them in a limited way, and I do have some technical questions that I would like some responses to.

Some of the alternative payment mechanisms are hinted at, although not specifically spelled out in this amendment. I think this amendment frankly owes a lot to Dr John Evans and his committee, which did a fair amount of work in this whole area when the government came forward and the Minister of Health came forward with her ludicrous proposal to unilaterally cut newly graduating physicians to 25% of the fee schedule unless they practised where, when and how the minister prescribed.

In terms of this particular section and the questions, the agreement with respect to the supply and distribution measures is subject to—I'll just refer you to the OMA-Ministry of Health contract agreement, section 3A, "Distribution Measures: 1, Direct Contracts"; paragraph 1.4 of the agreement.

Basically, the background of this is that the government may make contractual agreements with general and family practitioners and so on to provide services in identified communities. Paragraph 1.4 says, "Conditions of the contract will be governed by a master contract agreed to before October 31, 1993." I'd like to know if that agreement has been completed and what's in it.

Mr Wessenger: I will ask legal counsel to indicate what the status of the master agreement is.

Mr Williams: To the best of my knowledge, it's being worked on now in conjunction with the OMA and is near completion, but it hasn't been finalized yet.

1640

Mrs Sullivan: What does that mean, therefore? The agreement was signed between the OMA and the MOH. This bill and the provisions of this bill are in front of us precisely—although they have a far larger public policy effect and public effect, this bill is largely here to deal with the OMA-MOH agreement. We are now told that on a particularly important area with respect to physician resources planning and the implementation of planning measures, one of the contractual agreements with respect to timing of master contract drafting has not been undertaken.

Mr Wessenger: If I might just generally respond with respect to some of the comments made by Ms Sullivan, first of all, the long-term plan with respect to the question of physician resource matters is to be dealt with under the physician resource agreement, hopefully, that will be entered into between all the provinces and Canada. The overall physician resource areas are to be dealt with under that plan.

With respect to the specific problems of underserved areas, first of all, you're quite right, the direct contract is the longer-term measure for dealing with underserved areas, though I might point out that this amendment provides that there can also be an exemption for a physician on fee-for-service billing, also in an underserved area as well. Either approach, either the direct contract approach or an exemption on the fee-for-service billing—although I understand the general consensus is that the direct contract is a more likely approach because the financial arrangements would be more satisfactory to a physician in an underserved area to be under direct

contract than it would be to be on a fee-for-service basis.

Mrs Sullivan: When Bill 50 came forward, while the public impression of that bill was quite different than perhaps insiders in the Ministry of Health understood it to be—and people were deeply, deeply worried about Bill 50 in its original form—there's no question in my mind now and in the minds of many other people that Bill 50 was put on the table so that the government would have a hard stance as its first position to take to the bargaining table with the Ontario Medical Association.

When, perhaps as a result of the threats of Bill 50 and perhaps for other reasons, some steps were taken and some conclusions drawn between the Ministry of Health and the Ontario Medical Association, we now have an agreement on which these amendments are based. In other words, the OMA is participating with the Ministry of Health in writing legislation for the province. It behooves us, therefore, to look at, and very carefully, what is included in the OMA-Ministry of Health agreement. There are substantial sections of that agreement with respect to distribution measures that provide various options. They lay out timetables and they lay out responsibilities on both of the parties with respect to those options. One of the options is direct contracts.

The agreement says that those contracts will be governed by a master contract agreed to two weeks ago. We have not seen those, but they will specify, by example, compensation and benefits, vacation and other paid and unpaid leaves, access to programs and services provided by the community etc. It will also provide for accountability and reporting. Designated communities and how they are to be determined are included in that agreement; health care institutions involved in the recruiting are included in that agreement; locum tenens' programs are included in that agreement; locum registries are included in the agreement; regional health clinics are included in that agreement.

What I'm saying to you is that if the agreement, as we were told by the Ontario Medical Association, is writ in stone, then what has precedence, the agreement, which specifies dates which have not been adhered to, or the legislation, which doesn't have dates and under which, we're told by the parliamentary assistant, anything is subject to a meeting of federal and provincial ministers of Health? We need to plan our own resources both within Ontario, and perhaps using some of the principles, but we must have remote and underserved communities covered in a way in which they are now, and that planning has to be put into place.

Are you saying we have to wait for a meeting of the federal and provincial Health ministers? We know how effective those meetings are.

The Chair: Parliamentary assistant, Mr Hope had a related question. I don't know whether, Mr Hope, you want to put that now.

Mr Hope: The thing is, I'm hearing about underserved area communities, and mine happens to be one that is felt by the major part of our communities. And I'm looking at this amendment that's been forwarded and listening to some of the comments saying about an agreement had to be in place before the end of the

month. It also stipulates in the agreement that the doctors would work to make sure that we could utilize and move doctors into underserved area communities.

So when we are speaking about the context of the agreement that was signed between the OMA and the Ministry of Health, I think it's important to underline the other areas that were committed to in the agreement that say if an agreement takes a little longer than that which is required, then there are provisions for the minister to try to get doctors, and even the doctors agreed to try to get doctors, to these communities that were faced with underserved areas.

When I look at this amendment, I find the amendment to be worthwhile and to allow us in rural communities who have a problem with doctors a way of getting to a solution for our communities. While the minds of the to-be's of the Ministry of Health and the OMA figure out what they're going to do, it allows the minister the opportunity to extend help to us in those communities in underserved areas.

Looking at the amendment, I fully support the amendment, but I also understand that we have to do it in a global context which is looking at Canada.

Mr Wessenger: I'd just like to reiterate what Mr Hope has indicated. The whole purpose of this is to get physicians in the most needy areas of the province, those underserved areas, and I certainly think this amendment very much assists in that regard.

We have to look at the past. Attempts to provide physicians in underserved areas have not been successful, and in this instance we now have the OMA working in cooperation to meet these needs, as distinct from the isolated government moves on its own. So I think this is the first time we have a sort of coordinated approach and the first time we have a good chance of being successful.

The Chair: Are there any other comments? Mrs Sullivan, and then I think we'll have to move on.

Mrs Sullivan: In subsection (7) of the amendment, the specific exemptions which are provided to physicians who are not Ontario-trained physicians are with respect to meeting certain needs. Those certain needs have become very clear to us in recent days. I'm thinking, by example, of radiation oncologists, who have been identified as being in extremely short supply not only in the short term but in the long term.

We had been assured in the Legislature by the Minister of Health that she had undertaken steps and had contacted the immigration department with respect to letting them know that Ontario would welcome radiation oncologists from other jurisdictions to meet our needs in what would be a medical speciality and domain of medical practice as it's included in this particular bill.

I suppose what I am asking is, if there is no contractual agreement with respect to the design of the contract, how is this recruiting going on that the Minister of Health has suggested to us is occurring lickety-split? There is no contractual agreement with respect to a master contractual model between the OMA and the government. It's late now. Three weeks ago in the House, the minister assured us that that recruitment was going on. On what basis?

There is an urgency here that is pressing.

Mr Wessenger: I think it's fair to say the present underserved area program will continue.

Mrs Sullivan: I'm not talking about an underserved area program. The underserved area program needs to be completely revamped. I'm speaking about specific needs for specialists in an academic area, medical speciality or domain of medical practice, which is where the radiation oncologists fit in and where foreign medical graduates would be exempted under the terms of this bill.

1650

I agree that they're going to have to be exempted. But what I'm saying is, the government hasn't pulled up its socks and put the mechanisms in place so that the appropriate recruitment can be done. You haven't even reached an agreement with the OMA on the nature of the contract by which the oncologists would be brought into the country and into Ontario.

Mr Wessenger: I'm going to probably have to ask ministry staff to indicate the situation in this regard, but I would assume that there's nothing under the existing situation that prevents the recruitment of radiation oncologists into Ontario. That's continuing. The failure to have the master agreement does not prevent the recruitment of radiation oncologists.

Mr Williams: If I can add to that, I would support what the parliamentary assistant has said, plus I would go on to say that all the exceptions that are set out here dealing with the various supply issues, certainly there have been doctors—in fact 40 or 50 of them—who have applied to us to come into the province under the various exemptions, and we are working with them now to ensure that they can in fact fulfil the need where the need requires. So even though we're discussing the bill at this time, there are provisions being made for those particular doctors.

Mrs Sullivan: According to the OMA agreement, that is not quite correct. The OMA agreement provides that contractual agreements will be available, and it talks about GPs and so on, and "other specialist physicians to provide services in identified communities," laterally in specified domains.

The bases of those contracts are the bases of the recruiting. The conditions of the contracts will be governed by a master contract, which was supposed to have been agreed to before October 31, 1993. That contract has not been agreed to. How is the recruiting going on? On what basis are, by example, the radiation oncologists—and there are other shortages, surgery being one—going ahead?

You have an agreement here that says there will be contractual arrangements made, contractual agreements, for any exemptions that are given under the bill.

Mr Wessenger: I'm going to ask Dr LeBlanc to respond specifically to that.

Dr LeBlanc: Radiation oncologists are salaried positions within the cancer foundation clinics, and therefore they already have a salary structure within which to be recruited. Radiation oncology is a monopoly of the cancer foundation in Ontario. The master contract

that is being dealt with is for community-based physicians at the moment and is only being negotiated for general practitioners and psychiatry. There is no negotiation of a master contract for radiation oncologists. Those would be handled by exemption into the cancer clinics.

Mrs Cunningham: I, as you know, Mr Chairman, haven't been attending these meetings on a regular basis but trying to follow them through Hansard, so I'm particularly interested in some of the comments that are being made. I'd just like to take a step backward as to why this amendment is being, I think, received with some degree of relief throughout the province, and I think it's probably in some ways something that should never have been necessary. I just want to put on the record for those members of our medical communities a couple of their concerns that I think I should remind the government about.

In the last week I've been visiting some medical centres in southwestern Ontario and the group of people who speak to me more frequently than anyone else is medical students who are working in the hospitals, residents, and many who are—even this morning, as I came from London to Toronto—going north for some of their placements for their training. It's, I think, a very depressed and angry group of young people.

I'd just like to remind the government that I hope never again will it ever negotiate in public some unrealistic proposals such as reducing or discounting fees by 75% for new general practitioners, paediatricians and psychiatrists for a period of five years. By doing that, we have sent the wrong message to many of our young people, and possibly it's going to take a long time to recover, not only for the young people but for the physicians who are supervising them, not only in those fields but others.

At a time when the public are looking for physicians who for the most part have been trained in Ontario and Canada, for a lot of reasons—first of all, we think our education is superior and, secondly, we know it's extremely expensive—I hope we never send that kind of message to the medical community again.

I'm looking at this as an amendment that we will support, and a drastic improvement over what we were looking at in the spring of the year.

With regard to the utilization of our physicians, I certainly agree with my colleague Mrs Sullivan in her exemplary way of putting forward the concerns of the medical community and of the public in looking at a plan for utilization of physicians across this province.

I didn't hear the parliamentary assistant respond in any explicit way as to when that plan would be in place, and I'd like him to do that. If he did, I'd like him to say it again.

Mr Wessinger: I'll have to ask Dr LeBlanc to respond to—

Interjection.

Mrs Cunningham: I'd like it in writing, Randy, because you and I have both answered questions. It's nice to have a Hansard.

Interjection.

Mrs Cunningham: Perhaps Mr Hope could respond on behalf of the government, then.

Interjection.

The Chair: Order, please. The parliamentary assistant asked if Dr LeBlanc could—

Mrs Cunningham: Whoever. If Mr Hope has more information than the parliamentary assistant, I'd be happy to quote him if that's what has to happen. It doesn't matter as long as I'm quoting the government.

Mr Hope: It's not a problem.

The Chair: Mr Hope, you were next on the list if you were going to speak to that issue. You had a different issue?

Mr Hope: I'm not finished.

The Chair: I realize that, but I didn't know whether you wanted to answer that. The parliamentary assistant had asked Dr LeBlanc to comment.

Mrs Cunningham: It's a question I get asked and I just want an answer.

Mr Wessinger: You wanted some explanation of what the progress is?

Mrs Cunningham: Just the status. That's right.

Mr Wessinger: The status of the physician resource agreement, how it's being negotiated?

Mrs Cunningham: Yes.

Mr Wessinger: I think Dr LeBlanc would probably be in the best position to tell you how far it's progressed.

The Chair: Dr LeBlanc—or Mr Hope?

Mr Hope: Sorry, I'm not in the ministry.

The Chair: The parliamentary assistant has asked if Dr LeBlanc could—

Mr Wessinger: Yes. Ms Cunningham would like to know the progress with respect to the resource physician agreement with the other provinces.

Dr LeBlanc: I heard the issue in writing. The current federal-provincial plan is to consummate that as early as this March. The work plan would have it in March, and then the ministers normally meet in June every year. Then they would presumably give their final okay.

Mrs Cunningham: Could I just ask a subsequent one? Perhaps I could refer to a document at the same time: the Operation Equity document, the Report of the Committee on the Impact on Medical and Health Facilities and Services, the Regional Municipality of Sudbury, August 1993. There are a number of recommendations. I think this was presented to this committee at some time.
1700

Mr Wessinger: Before I ask Dr LeBlanc just perhaps for clarification, I assume your question relates to how we are assessing the areas that should qualify for underserved designation?

Mrs Cunningham: My understanding is you have a list of underserved areas. It was certainly quoted to me this week in two different physical locations in southwest Ontario that there was a list of underserved areas that you're dealing with. I just think it's underserved in general, but I'm not sure.

Mr Wessenger: I believe there's some process that the district health councils may become involved in, assessing—

Mrs Cunningham: As a matter of fact, I was at a district health council when this list was being reported on.

Mr Wessenger: Dr LeBlanc?

Dr LeBlanc: I'm at a disadvantage in commenting because much of this material is before the minister, and it's her prerogative to answer and decide on how this stuff is—

Mr Wessenger: I should indicate that the list of underserved areas and criteria and designations is presently available from the ministry, those areas that are presently designated as underserved areas. Certainly that information is available. But I don't know whether that was your question.

Mrs Cunningham: Perhaps you could make that available to the committee tomorrow. That would be helpful to me.

Mr Hope: The thing is that we're dealing with an old system, which is underserved areas. A lot of rural communities had a hard time. I believe it was even described in the London Free Press about what was underserved.

The new system we all wait for is the agreement on what a new underserved area community will look like, which we wait for between the health officials and the OMA, when we start talking about what the doctor needs are in our communities. But when we're starting to talk about this amendment, I'm wondering how all these long statements are getting into the direct question in clause-by-clause. I'm still having a hard time understanding that. But what this does is allow us to take, under this legislation, appropriate action until such agreements are in place that will allow us a province-wide system which can be agreed to by whomever.

In situations right now, like in my own communities, under the current underserved area program, we're not designated underserved because of the current criteria. We know the need is there, and we need doctors in our community. We wait for that new definition of "underserved" to come forward.

The list that Ms Cunningham refers to is available today. If they were actually able to apply under the old system and be designated, they were lucky, because it was mostly focused in northern communities, not in southwestern Ontario and rural communities.

Mrs Cunningham: Could I be a little more specific?

The question has two parts. First of all, there are a number of recommendations in here that speak specifically to Sudbury and the region but do impact on my next question, and that is, how is the government dealing specifically in Ontario with the list of underserved areas? What are our immediate plans for that? We're certainly not going to wait for some federal-provincial agreement before we deal with underserved areas where the needs are very specific now. I say that in context of this one report, and there are others.

My staff has just advised me that there was an agreement

in August—and correct us if we're not correct—that there would be a list made at the end of September where they were taking in some of the concerns that Mr Hope has stated.

This August agreement is public information. We were listening to this at one of the health council meetings on Friday of last week. Could you please tell me, and I said I would ask for it, what has happened with that list that was to be prepared by the end of September? There's got to be somebody here from the joint management committee who understands what I'm asking for.

Mr Wessenger: I fail to see how this is particularly relevant to this amendment. I can understand the concerns that are being raised, but the provisions of the section provide that there are exemptions to meet a need in a special domain of medical practice or a geographic area that the minister considers to be underserved. This act permits the designation by the minister of areas that are underserved so that the needs can be met.

The Chair: Just before Ms Cunningham and then Mr Hope, I am allowing a fairly broad discussion of this amendment.

Mr Hope: Really broad.

The Chair: Well, Mr Hope, there are I think some reasons around some of the amendments where perhaps by having a broader discussion it may avoid some other problems, and that's why I'm allowing that. However, I do think we are getting close to where we've probably plumbed the issue, at least in terms of identifying, from whose perspective, what the pluses and minuses are. I just want to say that. Miss Cunningham, if you would like another comment, and then Mr Hope.

Mrs Cunningham: I think we're all finding ourselves in a bit of a— we have to explain the legislation and talk about how it works, and it's not my intent to raise issues here that don't relate. If they don't relate, part of my problem may be, and I think others' as well, that this is a new amendment—it's my understanding it is—so I didn't have a chance to get totally briefed on it. But I do get questions with regard to how it's implemented, and my colleagues probably do as well. So I think I've asked a specific question, I would like an answer, and I would be happy to have it tomorrow if that's appropriate.

There was an agreement in August as to coming up with a new list of underserved areas. It was supposed to be ready by the end of September, and I'd like to know the status of the agreement and the list. If it isn't a new list and it hasn't been prepared, just tell me. But I'm getting the question—I'm out again tomorrow—and I would like to be able to answer it. If in fact it can be brought to my attention before 6 o'clock, it would be even better because I am in three communities tomorrow and I'd like to be able to answer the questions. That's all.

Mr Wessenger: I hope I'll be corrected if I give an answer that's not correct, but I understand that there will not be a new list available for a certain time. I don't know what the time frame will be, but I understand the policies are being developed and I think that's going to be a fairly long process.

Mr Hope: First of all, the list I think is a public

document. I don't know what the secrecy is. There is currently a list of those communities that are designated under the current underserved area program.

Mrs Cunningham: I've seen that list. I'm looking for a new one.

Mr Hope: And the new list, which we all anticipate and wait for, is the one that will come up between the OMA and the Ministry of Health and will identify underserved areas in a broader context so that people from rural communities—instead of being northern-focused, it can be rural-focused also and allow us to participate in having a voice or an opportunity to have doctors. But I guess we all wait for that new agreement between the two organizations, the OMA and the Ministry of Health, to come up. The one you're looking for right now is a public document that's already available which identifies—

Mrs Cunningham: No, it's not.

Mr Hope: It is available because I've been able to access one.

Mrs Cunningham: That's available; we agree. That's not the one I'm looking for.

Mr Hope: The one we're all waiting for is the new list, but first of all, the biggest problem we have is that we don't have a new definition; the Ministry of Health and OMA have not come up with a new definition yet.

Mrs Sullivan: I'm interested in Mr Hope's comments with respect to what the new definition of "underserved area" will be. It seems to me that those areas are in fact included fairly precisely in subsection (7) of the government amendment. They would indicate that an underserved area will be expanded beyond a geographic area to include a medical specialty, a particular domain of practice, a specific academic area or any other thing that the minister may determine to be underserved.

One of the things I'm interested in is that the minister has power under this legislation to exempt a physician and the agreement says that any national agreement can't leave an Ontario medical graduate at the whim of the minister in terms of differential fees and so on, which previously had been included in Bill 50. What is the intention with respect to the process that the minister takes in order to exempt a physician in those particular specialties or domains?

Mr Wessinger: From reviewing the legislation, it's clear that once the minister determines an area where an academic specialty is underserved—

Mrs Sullivan: Yes. I guess my question is, how does the minister determine that?

Mr Wessinger: I think the answer to that is that the full criteria have not yet been developed for making those determinations, although in some areas it would be very easy to make a determination, for instance, in the area of medicine for HIV and AIDS treatment. That probably is an area where there has been a determination of underservice.

Again, there are certain areas that are obviously geographical. The question of oncologists is obviously an area that's considered to be underserved. I don't think

I can go any further than to say there are obviously areas that are presently considered in that domain. There are further areas that have to be looked at, and obviously any Minister of Health is going to have to be continually revising the process, once the criteria are established, to determine who qualifies and who doesn't. It has to be an ongoing, continual process. It's not something that's a one-or-all situation.

1710

The Chair: I think we have explored this. There are obviously some issues there, but I think they have been put out and we should now put the question. So I would ask, shall the government amendment carry? All in favour? Opposed? Carried.

The next motion is, I believe, the Conservative motion, Mrs Cunningham, which has been distributed, the changes to sections 26.1 and 26.2. Would you be good enough to move that motion.

Mrs Cunningham: Just to correct, I think one of the notions, before I get into this—

The Chair: I'm sorry, this is a point of notion?

Mrs Cunningham: You called the vote and I just wanted to correct something that I think is worth correcting with regard to that process around the list. It's the government's responsibility. The OMA has advised me that it is not putting it in concert.

Mr Hope: It's in the agreement.

Mrs Cunningham: I'm not going to argue the point. I've just been told.

The Chair: Perhaps we could move on.

Mr Hope: It's in the agreement to establish an underserved area. It's right in the agreement.

Mrs Cunningham: I'm just telling you that I think it's handy for the government members to blame the OMA. I'm just telling you, Mr Chairman, that it is in fact a reality that it's up to the government to come up with a list, and that's what I'll be saying.

With regard to this motion, I'm looking for some direction here. I'd like to read it into the record so that people can consider it, but I have to say that because of the limited time available, it isn't complete. We haven't analysed the whole motion, by adding sections 26.1 and 26.2, in any detail. It's because we've been trying to work with legislative services today.

The Chair: That's fine. Would you like to move it and stand it down then?

Mrs Cunningham: I would like to do that so that it's on the record and the parliamentary assistant can consider it, because there isn't enough time, given the process.

I will move subsection 2(3.1) of the bill, which is sections 26.1 and 26.2 of the Health Insurance Act.

I move that section 2 of the bill be amended by adding the following subsection:

"(3.1) The act is amended by adding the following sections:

"Agreement

"26.1(1) Despite this act, for the purpose of giving effect to an agreement between Her Majesty in the right

of Ontario or the minister and the Ontario Medical Association, the general manager shall,

“(a) decrease the amount of any payment that would otherwise be made by the plan to a physician or any other person for insured services rendered in Ontario by a physician, by an amount determined in accordance with the regulations; and

“(b) make a payment to a physician, or increase the amount of any payment to a physician, in or by an amount determined in accordance with the regulations, whether or not the physician submits his or her accounts directly to the plan under section 15.

“Deemed reduction

“(2) If the payment referred to in clause (1)(a) is wholly or partly for an insured service rendered by a physician who did not submit his or her accounts directly to the plan under section 15, for the purpose of the Health Care Accessibility Act the amount payable under the plan for the service shall be deemed to be reduced by an amount determined in accordance with the regulations.

“Application of provisions

“26.2 If an agreement between Her Majesty in right of Ontario or the minister and a prescribed association or other entity respecting payments for insured services rendered in Ontario by the practitioners or health facilities referred to in the agreement so provides, section 26.1, clauses 45(1.1)(k) and (1) and subsection 45(6) apply, with necessary modifications, for the purpose of implementing the agreement.”

Mr Chairman, I think that under the OMA-government agreement—do you want me to read my comments in so people can consider it, or shall I just stand it down? Would you prefer the comments?

The Chair: If you wish to put your comments, the only thing I'd say is that may incur other comments.

Mrs Cunningham: Well, that's fair. The thing is, because we haven't finished it, I was hoping we could deal with it tomorrow, but at least the parliamentary assistant can consider the comments and give us some feedback.

The Chair: Fine.

Mrs Cunningham: As well as the Liberals, because I'm working with my colleague here too.

The Chair: I've never known Ms Sullivan to refuse an offer like that.

Mrs Cunningham: And with Mr Hope.

The Chair: Nor Mr Hope.

Mrs Cunningham: It's my understanding that everybody's working towards an agreement on the wording on this, so I'll read this in.

Mr Hope: That's questionable.

Mrs Cunningham: Well, it may be, but that was what I was given, so that's why I'm doing it.

The Chair: Please go ahead.

Mrs Cunningham: Recuperation of funds—this is referred to as a clawback amendment. Under the OMA-government agreement, the joint management committee is charged with the responsibility of ensuring that pay-

ments to physicians do not exceed the negotiated limits.

I'm reading this into the record because it's something that we've all agreed to in our group, especially Mr Wilson, who I'm speaking on behalf of to a great extent today—those of us who are interested in health care in the PC caucus. It isn't all of us today, but it's a lot of us.

There will clearly have to be some form of a clawback or reduction in amounts payable to physicians this year, and of course we heard the debate in the House today. The joint management committee has already agreed to an interim 4.8% reduction on amounts payable. Everybody knows this. It's not new.

The OMA is presently considering various options as to the fairest and most equitable way to ensure that payments to physicians do not exceed the negotiated limit, ranging from an across-the-board reduction to individualized limits based on previous year's billings, and all of us read the media on the weekend.

This was considered at the OMA council meeting on Saturday, and so we've had some access to what's happened. It's our understanding that the council is leaning towards an option other than the 4.8% across-the-board holdback on the gross. So some concern has been raised about whether the existing provisions of the Health Insurance Act are flexible enough to allow the OMA and government to implement the various clawback options which are being considered, other than an across-the-board clawback, and they're looking at those kinds of alternatives. It's even been suggested that there may be some limitations on the ability to implement an across-the-board clawback.

We've worked with the OMA on this amendment, and I understand that others have as well. I think it's a matter of simply ensuring that there is legislative authority for OHIP to implement the clawback mechanism agreed to by the OMA and the government. A clawback decision must be made and implemented as soon as possible, particularly since the 1993-94 fiscal year is over half over.

It's our understanding that the only way to ensure this can be done is to include the amendment in Bill 50. Quite frankly, it's a practical thing and that's why we're putting it forward. I've already explained why we haven't completed our amendment with regard to sections 26.1 and 26.2.

I think I'll just leave it at that, and appreciate any comments the government may put forward.

1720

The Chair: So we will stand this down and return to it tomorrow.

Mrs Cunningham: Yes, with the intention that we all work together to solve a problem here.

The Chair: Okay, fine. Then the Conservative amendment is stood down and we will come back to it tomorrow.

The next amendment before us, then, is a government amendment.

Mr Wessinger: I move that section 2 of the bill be amended by adding the following subsection:

“(3.3) The act is amended by adding the following sections:

Third-Party Services

“Third-party service

“36.1(1) For the purposes of this section and sections 36.2 to 36.4, a third-party service is a service that,

“(a) is provided by a service provider in connection or partly in connection with,

“(i) a request or requirement, made by a person or entity, that information or documentation relating to an insured person be provided, or

“(ii) a request or requirement, made by a person or entity, that an insured person obtain a service from a service provider;

“(b) is not an insured service or is deemed, by a regulation made under clause 45(1)(i), not to be an insured service; and

“(c) is prescribed as a third-party service or is prescribed as a third-party service in circumstances specified in the regulation.

“Third party

“(2) For the purposes of this section and sections 36.2 to 36.4, a third party is a person or entity who makes a request or requirement referred to in clause (1)(a).

“Service provider

“(3) For the purposes of this section and sections 36.2 to 36.4, a service provider is a physician, practitioner, hospital or health facility, or an independent health facility as defined in the Independent Health Facilities Act.

“Regulations re third parties

“(4) Despite subsection (2), a regulation may be made in relation to a specified third-party service or in relation to a third-party service provided in special circumstances,

“(a) prescribing another person or entity as a third party instead of or in addition to the person or entity who makes the request or requirement referred to in clause (1)(a);

“(b) if more than one person or entity make the request or requirement referred to in clause (1)(a), prescribing one or more of them as third parties and providing that the others are not third parties; or

“(c) providing that there is no third party.

“Deemed requirement or request

“(5) For the purpose of subsection (1), a person or entity shall be deemed to have required or requested that information or a document relating to the insured person be provided, or that the insured person obtain a service from a service provider, if providing the information or document or obtaining the service is related to the person or entity doing or not doing anything in relation to the insured person or related to the insured person receiving or not receiving anything from the third party.

“Third party liable

“36.2(1) If a service provider who provides a third-party service to an insured person renders an account for payment to the third party, the third party is liable for payment of the account, subject to subsection 36.3(3).

“Same

“(2) If an insured person pays all or part of an account rendered to him or her by a service provider for a third-party service provided to the insured person, the third party is liable to reimburse the insured person for the amount paid, subject to subsection 36.3(4).

“Insured person’s liability to pay

“(3) Nothing in this section affects any liability of an insured person to pay a service provider’s account for a third-party service.

“Right to render account at time of service

“(4) Nothing in sections 36.1 to 36.4 affects any right of a service provider to render an account for a third-party service at the time the service is rendered.

“No double recovery

“(5) The total amount that the service provider recovers in respect of a third-party service shall not exceed the amount of the account rendered.

“Application of section

“36.3(1) This section applies to,

“(a) an amount owing by a third party to a service provider under subsection 36.2(1);

“(b) an amount owing by a third party to an insured person under subsection 36.2(2); and

“(c) an amount owing by an insured person to a service provider for a third-party service provided to the insured person by the service provider.

“Proceeding to recover payment

“(2) An amount referred to in subsection (1) may be recovered in a court proceeding or, if a body is designated or established under clause 45(1.1)(f), in a proceeding before the body.

“Court, body may reduce amount payable

“(3) In a proceeding to recover an amount referred to in clause (1)(a) or (c), the court or body, in addition to any other order it may make, may order the third party or the insured person, as the case may be, to pay the service provider an amount that is less than the amount charged by the service provider for the third-party service if the court or body finds that the amount charged by the service provider for the third-party service is excessive.

“Same

“(4) In a proceeding to recover an amount referred to in clause (1)(b), the court or body, in addition to any other order it may make, may order the third party to pay the insured person an amount that is less than the amount paid by the insured person to the service provider for the third-party service if the court or body finds that the amount charged by the service provider for the third-party service is excessive.

“Determining whether excessive

“(5) In determining whether an amount charged by a service provider other than a physician for a third-party service is excessive, the court or body shall consider any applicable guidelines respecting third-party services and any applicable schedule of fees, and may consider any other relevant factors.

“Same

"(6) In determining whether an amount charged by a physician for a third-party service is excessive, the court or body shall consider the Ontario Medical Association's guidelines respecting third-party services and its schedule of fees, and may consider any other relevant factors.

"Same

"(7) The Lieutenant Governor in Council may, in a regulation, provide that the court or body shall consider other matters in addition to or instead of the guidelines and schedules of fees referred to in subsections (5) and (6).

"Adding service provider as party

"(8) No order shall be made under subsection (4) unless the service provider has been added as a party to the proceeding.

"Same

"(9) The service provider may be added as a party to the proceeding referred to in subsection (4) on such terms as the court or body considers just.

"Service provider to reimburse insured person

"36.4 If, under subsection 36.3(4), the court or body orders the third party to pay the insured person an amount that is less than the amount paid by the insured person to the service provider for the third-party service, the service provider is liable to repay the difference to the insured person."

This provision really relates to placing an obligation on third parties who request services, the legal liability to pay for those services. These of course were all determined by regulation, what prescribed services are subject to this third-party liability. It's consistent with the provisions of the OMA agreement.

Mrs Sullivan: For many years under OHIP there were many tests and procedures which were in fact covered by OHIP, as part of the tradition of medicare, that in fact had never been questioned or designated as medically necessary.

For the first time, on December 17—I continue to remind you, a week before Christmas Eve—our new regulations were brought in to specifically delineate those specific procedures that would not be covered under OHIP but which had in the past traditionally been paid for by OHIP. In many cases it was reasonable; these don't fit into the usual contextual thinking of medically necessary.

I'm thinking, by example, of requirements by employers for health certificates, although some of those requirements may not be medically necessary for the individual involved but in fact may be an appropriate intervention at the time. One doesn't want, for instance, an active tuberculosis patient dealing with food. There are other examples. None the less, the third-party requests—and certainly I've had them in the past from my children's camps, my children's schools and so on—have become a drain on the system.

As I make my comments and my criticisms here with respect to the government's preparation, I want it to be very clear that I think there had to be an accommodation made with respect to what should be included and what

shouldn't be included as an OHIP-paid-for procedure or treatment or diagnostic approach. But I don't think the government has done its homework, and that's where my difficulties with this particular section and the way it is written lie.

1730

First of all, we are told that there are a number of areas that are under review with respect to what should be covered and what shouldn't be covered by OHIP. We know, by example, from testimony that was provided to the committee from school boards, from day nurseries, child care centres, that in fact there is something more than the medical necessity of tests to the individual. There is a broader concern that those organizations have with respect to the health safety of others in the group whom they have to take account of.

Similarly, the issues that were brought to our table by those two organizations were dollar issues. Who pays? If the third party is responsible, and that is extremely clear, then that's fine. What that means is the school boards are going to have to pay if and when a requirement is made for tests or diagnoses, diagnostic actions, that the school boards and perhaps the Ministry of Education and Training itself believe are appropriate.

However, the school boards may say, "No, we are not going to pay," and, fundamentally, under this there is an override that says the individual must pay. We are apparently moving the burden to the third party. The third parties, as in the case of school boards, have no assurance that the Ministry of Education would cover the costs associated with any of these procedures, so what we are seeing is simply another passing on of costs to the school board level.

That has not been determined. We had no assurance that those costs would simply not be passed on. We had an assurance from the parliamentary assistant that those costs from the Ministry of Health for areas covered by the Ministry of Health when third-party requests were made would be covered. For other ministries, we do not have that same guarantee that there would be a rollback.

Once again, I just want to point out that while the government may say, under section 36.2, that a service provider who provides a third-party service is liable, that provision is overridden in subsection (3) of the same section, when it says that nothing in fact in this section affects the liability of the insured person, himself or herself, to pay for the provider's account.

I put those concerns on the table. I'm also distressed that there were many groups and organizations that did not know, because this was not part of the original bill—this entire area was not part of the original bill—that this was coming forward. They did not know what their liability was or is likely to be, and in fact we have not heard from a single employer's group, a single insurer, a single pension plan or any of the other multitudes of parties who have a very strong interest in this particular section of the bill.

Mr Hope: Just to respond to some stuff, currently under some of the school boards' initiatives, they already require that. First of all, they pass the costs off to the

parents, and as one who deals with two children in the current school system, I know about the costs that are associated.

I only use this example because it has been brought up and I want it to be brought up in the proper context, that they're also asking for doctors' notes to apply medicine or whatever, but that's standard policy in the class. There's always been a board. It has been put on the parents. We've always had to pay for notes or whatever for my children, either through puffers or whatever. We've always had to cover it. So I'm having a hard time understanding where the problem is around third-party billing.

There are policies out there. There are things that are initiated by the Ministry of Education that have to happen, but there are things that are initiated by school boards that are not part of the joint requirements between the two. There are some things around some of the current policies versus actual legislation that I think have to be cleared up as we talk through this part. I believe that the amendment does address the current situation, in my opinion, as one who is a parent and has children in the school system today.

Mrs Cunningham: Perhaps I'll be a bit repetitive but I think it might be helpful with regard to some of the concerns. I would like to ask, and perhaps the parliamentary assistant could be prepared for this, with regard to the document that was sent to us today along with the amendments. It's called Review of Legislative Requirements for Third-Party Services. I have some questions with regard to that document, especially with regard to the process and status.

I'll just continue here with regard to third-party services. I'm in agreement with both of my colleagues who've spoken to this in that there seems to be some confusion over who is responsible for paying for the various third-party services. It's already been mentioned. The Ontario Coalition for Better Child Care and the Ontario Public School Boards' Association made some presentations before the committee regarding inequities and problems associated with third-party services which I feel should be addressed.

Specifically, the Ontario Coalition for Better Child Care expressed concern that the government amendments concerning third-party billing would result in a number of issues that they presented to the committee, and I think in fairness I'd like to do that again.

"Ontario's health plan would no longer cover doctors' visits to ensure that staff or children are able to return to the program following an infectious illness."

It was raised by Mr Hope that he was concerned about some of the examples. These are the examples that were given where they themselves don't understand how this amendment will affect them, so I think I'll just raise them. Perhaps the parliamentary assistant could be specific if he has to be.

The second concern they had was that "Medical examinations required by staff or children before working or enrolling in a program will no longer be covered by health insurance." If they're not correct in their assump-

tions, then take them one by one and answer so that we can again respond. These are the questions we get.

The third point they made was that "Medical examinations required by volunteers who work with children will no longer be covered." It's a fairly big one in many of our family and child care agencies across the province, that right now volunteers are asked to be in good health.

"Subsidy regulations often require parents to provide a doctor's note if their child is absent from day care for a certain period. Failure to produce this documentation can result in a parent losing her subsidy."

Those are the specifics that perhaps the parliamentary assistant could address with regard to child care.

The public school trustee and executive vice-president of OPSBA, Donna Cansfield, listed some examples of third-party services necessary to meet the learning needs of children. I'd just like to list them again. Maybe it would be easier if we got an answer to these in writing or maybe we could be responded to today, but I do expect to have these before this bill is passed. I'm sure my colleagues would feel the same way. They were raised and we need an answer:

—A medical opinion on the learning abilities and needs of children attending school for the first time, which is a requirement.

—A physician's advice as necessary on matters such as students' allergies, medication and fitness for strenuous activities, which is now paid for by OHIP.

—A health and/or psychological assessment when this information is needed to determine the needs of special students, often in association with recommendations for drug administration, which teachers have to deal with.

—A medical opinion to verify a child's need to be taught at home, because then home care comes in, but without the medical opinion you can't deal with it.

These are examples that, where boards are concerned, either they or low-income parents will get stuck with the tab for paying for just these examples. These are medically necessary services to meet the learning needs of children.

1740

Ministry responses to questions raised as a result of the presentations were inconsistent. I certainly ask that they be documented, because it's not appropriate that we make that statement without giving examples. So I'd like to do that. Maybe what we had were not correct responses or maybe there's another reason for these statements.

The parliamentary assistant claimed that third-party services raised by the Ontario Coalition for Better Child Care "are presently not covered by the health insurance system and it would be, in effect, the parents' responsibility to cover that cost under our existing system." There are many who would argue that the services I've described are not at present paid for. I can say, having run a very large agency in London, that all of these would have been covered. We would not have expected families to pay for these.

He also stated, "There has been no decision made at this stage to transfer that liability from the parent

to...child care programs." Now, those are two inconsistent statements. One says that the system doesn't pay for them—and we say they do—and the other one says that the system does pay for them and there's been no agreement that this payment should be transferred to the programs. So they're different answers to the same question.

The legal counsel to the Ministry of Health went on to say—I think his name was Mr Williams, if I'm correct—with regard to regulation 785/92 of the Health Insurance Act, that "a return to a day care" for medical reasons "after a temporary absence would not be considered a non-insured service." He then claimed that many child care situations would involve liability on the part of the Ministry of Community and Social Services.

Mrs Sullivan: That's right.

Mrs Cunningham: So these are inconsistencies that have to be addressed. I don't see how we can support this third-party part if we don't get answers, because it wouldn't be fair for us, with these inconsistencies, to support it. They're going to have to be responded to later on this afternoon, or immediately or whatever.

The same ambiguous, contradictory responses were provided by the government in response to the Ontario Public School Boards' Association. The committee requests for a written explanation of what current government policy is and what has been approved by cabinet with respect to third-party services have been ignored. The committee made that request and we haven't had a response. I can remember reading the Hansards when the committee did that. In asking my staff today, understanding that I was going to be here in place of my colleague, I was advised that we still don't have an answer to that.

I don't think it's fair for the government to ask us to respond to this amendment today, although in principle we agree with it, without knowing how it's going to work, and with the inconsistent responses on the record. It makes us all look just a little bit silly, for want of a better word. I think we shouldn't be proceeding in this clause-by-clause without the information.

I have to add that grievances have also been filed with the Grievance Settlement Board on this matter. It's my understanding that the government has agreed, as part of the August 1993 agreement with the OMA, another part of that agreement, to complete an examination of all legislative or regulatory requirements for third-party services, in consultation with the OMA, by March 1994—which isn't September 1993, luckily, but we can't ask for that, can we?—and that the OMA has agreed to develop a revised guide to billing for uninsured services, including third-party services, within the next six months.

Those are my remarks for the parliamentary assistant to deal with. At this point in time, I'd just like to ask what the purpose of this statement was. Why did we receive it? What does it really mean?

The Chair: Excuse me. This is the review of legislative requirements for third-party services which the Ministry of Health—

Mrs Cunningham: Yes. I've got a number of questions about it; I'm sure my colleague does as well. I

guess the specific question after he answers that is, what's the difference—

The Chair: I wonder, just because there are a number of questions, do you want him to answer the questions first?

Mrs Cunningham: If he can answer the other ones first, by all means, let's deal with them. Oh, yes.

The Chair: Then we could go on to this, or at least see if he can answer these.

Mrs Cunningham: That would be great.

Mr Wessinger: I think the first thing that should be made clear is that the amendment to Bill 50 does not change what is now an insured service or what is not an insured service. That in no way changes what is insured under the health insurance program or what is uninsured.

What the bill basically does is to have a provision that the government can prescribe certain services which are not now covered by OHIP to be the obligation of third parties. So it gives the power to put a legal liability on the party requesting; where it's prescribed, where the government makes a decision it's appropriate that that service be provided when it's asked for by a third party, the third party be liable for it. That's the issue with respect to the bill.

However, there's been a great deal of discussion on the issue of the review of what is covered and what is not covered under the health insurance program. I don't know whether the memo gives the list of all the items which are insured, but these are some of the items that are insured:

"Where the document is part of usual physician or practitioner's recordkeeping requirements;

"Providing advice to other health care professionals about the patient;

"Where the document is required by a law or program as a condition to being admitted to or receiving health services...in a hospital, nursing home, home for the aged...charitable institution...or home for retarded persons;

"Required under any program administered by the Minister of Health;

"Required to receive welfare, social assistance or vocational rehabilitation...benefits or services;

"Required by an independent health facility.

"In connection with a child's health where the child is under the supervision or care of a children's aid society, is in a place of detention under the Young Offender's Act or the child resides in a children's residence (as defined in Child and Family Services Act);

"Where required as evidence of immunization status relating to admission to an educational institution or program;

"Where required to prove disability in order to obtain a benefit for the purposes of a transportation program or law;

"Examinations under the Mental Health Act or for the purposes of investigation of an alleged sexual assault (in accordance with provincial government guidelines)."

This is what is included.

Mrs Cunningham: Can I ask you what you're reading from?

Mr Wessenger: That's information provided to me about what the list is. Is that not in the memo?

Mrs Cunningham: Do I have it somewhere?

Mrs O'Neill: That's not included in the memo.

Mr Wessenger: It's not in the memo?

Mrs Cunningham: No. That would have made sense.

The Chair: Is this something which could be provided to members of the committee?

Mr Wessenger: Yes, we could table that. There's no problem. I can certainly undertake to table that. I didn't have the memo in front of me.

The Chair: Would it be possible, given that it's almost 6 o'clock, to have that run off so people could have it for this evening?

Mr Wessenger: Yes, we'll give you both lists. I thought that was supposed to be provided.

The Chair: Both lists by 6 o'clock? Is that feasible? I don't know how many pages we're talking about, but we've got tomorrow, and it may be that members would want to look at it.

Mr Wessenger: Yes.

The Chair: Just before you go on, Ms Cunningham, did you have a question?

Mrs Cunningham: I'm just going to let the parliamentary assistant know the frustration of this process. As we try to do these things, it's given to us in the House at 3:15 in the afternoon; we've got two days to do this work. Obviously, you're as surprised as I am that we weren't given the information. I'm trying to read between the lines and see what's new, and now I'm probably going to be provided with something that's already regulation.

The question I would have asked is, what's the difference between the amendment and the current regulations? I'm going to find out. I've already been told that now we have legal liability on the third party. Is that the only difference? I don't know, Mr Chairman. You're nodding your head, but maybe that's all we've got. If that's the case, it's very important that we know exactly. I'd like the parliamentary assistant to deal with the examples one by one in writing, yes or no, with regard to legal liability that I put on the record as well, so we don't have to take up the time of the committee.

Mr Wessenger: I might ask that if there's going to be a request to respond in writing, it would be useful to have the request in writing.

1750

Mrs Cunningham: I can give you what I read. I would not have asked for it in writing if I had known that the only difference between the existing regulations and this amendment is not any change in the list at all but is just a legal liability on the third party.

Mr Wessenger: That's right.

Mrs Cunningham: I wouldn't have asked. I'm not being smart here. I'm asking you now because I realize that all of those issues could be a legal liability. That's

the only reason. If you haven't got it in the Hansard, I'd be happy to leave you my notes.

Mr Wessenger: Yes. I will try to get them. I just want to—

Mrs Cunningham: Well, why don't I just leave the notes?

Mr Wessenger: I want to make sure that you get your questions answered.

Mrs Cunningham: I will leave the notes.

Mr Wessenger: That's the only reason for the request.

I might add to this another point of clarification with respect to the review that's being undertaken with respect to the question of items that might be under third party in future.

On the question of what should be covered in OHIP and what shouldn't be, first of all, there's a review of whether an item is necessary or not. We're reviewing all government regulations that require the production of medical certificates to determine whether they're necessary and to see whether some of them can be eliminated. That's one of the aspects of the review.

Mrs Cunningham: That's good.

Mr Wessenger: A second aspect will be to determine, where there is something that is required, should there be an alternative payment mechanism to the fee-for-service aspect? In other words, there could be another way of dealing with the payment provision other than through a fee-for-service provision. Then they will look at those that should be the obligation of a third party and those that would remain the obligation of the individuals themselves. All those categories will be looked at in the review.

Mrs Cunningham: Could I ask you a question just for my own interest? When was this list put together and in effect? Because some of these charges are being administered now. Was this list, were these regulations, put together within the last year or two years? Could you tell me when?

Mr Wessenger: About a year ago the regulation was passed.

Mrs Cunningham: So the date will be on whatever document we're getting, I'm assuming.

Mr Wessenger: That was the December 17 date that Mrs Sullivan referred to.

Mrs Sullivan: In the dead of the night a week before Christmas Day, right?

Mr Wessenger: A copy of that regulation is actually—

Mrs Cunningham: 'Twas the night before Christmas stuff, right?

Mr Wessenger: No, no. It was available in the briefing notes, but—

Mrs Sullivan: Nobody could see.

Mr Wessenger: Nobody could see. It was available in the briefing notes.

Mr Williams: If I could, for Mrs Cunningham's information, there's a copy of the regulation, I believe, in

the front of the binder. I'm not sure if your binder is the same as mine, but I think—

Mrs Cunningham: Oh, that's fine, if it's there.

Mr Williams: The regulation is there.

Mrs Cunningham: It's just another one of my—

The Chair: Mrs O'Neill has been waiting patiently for a question.

Mrs O'Neill: I want to go back to the actual amendment itself. I have quite a bit of concern about the quantity of time—actually, the thrust of this amendment, in that court and the process of court is so much part of it all. I would like to ask the parliamentary assistant what the anticipation is regarding 36.2(3). What occasions or what areas do they feel, with this emphasis on courts—I have another question about that, but where do you foresee the real difficulties? There must be some kind of a premonition or we wouldn't have such an emphasis on court proceedings.

Mr Wessinger: I think probably the most common situation where this would come into effect, an example I might give for third-party situations, is where an employer requests a note from a physician with respect to the employee being away from work. That would be a situation where the third-party provisions would likely be brought into effect. I should say that they're still working on—we don't have it finally determined what's going to be under those third-party situations, but I think it's fair to say that that would be a situation that would undoubtedly be under the third-party situation, where an employer requests the person to justify their absence with a note. That would be an example of the type of thing that would be appropriate for a third-party liability.

On the other hand, for instance, in the situation where somebody's getting a flying licence, then of course that's obviously appropriate for the individual, as it is now. But I don't know whether I can go any—

Mrs O'Neill: I have difficulties, as I say, because—

Mr Wessinger: The aspect is that certainly from the OMA's position its opinion is that it would undoubtedly see this as a better means of collecting from a third party than it is of collecting from an individual.

Mrs O'Neill: Will there be any limits or entry point at which a court proceeding would begin? Some of these things cost \$50 and some of them cost—

Mr Wessinger: I'm going to ask counsel to explain, because I think it's envisaged there will be an alternative mechanism to a court process.

Mrs O'Neill: It's not mentioned here.

Mr Williams: Before I get into the specific question the member asked, I think the intention, both on the part of the government and the OMA, is to try to institute as quickly as possible some alternative mechanism other than the court. The idea is to use a tribunal such that we can have an exchange of documents so that we don't get into an adversarial type of situation where people feel there is an onus to appear and be cross-examined. We want to keep it as low-key as possible.

Mrs O'Neill: There's no mention of that in this legislation.

Mr Williams: It talks about a tribunal.

Mrs O'Neill: Okay. Sorry; I must have missed that. If I can go to the page—

Mr Williams: If I can go back and partially try to answer the question you asked, we envision that somebody would go to the court or go to the tribunal in a case where they felt that—I'll give you an example where, let's say, an employer requests that an employee get a note—

Mrs O'Neill: To come back to work.

Mr Williams: —and the doctor charges \$70 to have that service and the note produced and bills the third party. The third party might well say, "I'm sorry but I only pay \$50 for those kinds of notes." That would be the kind of situation where the third party would take the doctor to court and say, "Look, you charge an excessive fee," or it could be that the bill is given to the patient, the patient pays the doctor, goes to the third party and asks for reimbursement. In this situation the patient would then go to the third party and the doctor and say: "Look, you've charged me too much. I want to get reimbursed for the full amount." The section provides that where there's an excess fee and the court finds there's been an excess fee charged, the doctor is liable to pay back the patient for the excess amount charged and the third party pays for the balance. So it's clear that the—

Mrs O'Neill: That's what's frightening to me, that the court system is going to be somehow burdened with things that are around \$100.

Mr Williams: My suspicion is that because they are such low amounts, this will be worked out long before you ever get to court. That's my hope.

Mrs O'Neill: Good. My next one is on the framework or whatever you provided to us. I think it is helpful in that it basically indicates there is no definitive answer at this present time. Everything is being decided. I'm quite concerned about this cost benefit of maintaining the requirement that the ministries are going about. Are we going to be having comprehensive audits? Who's going to be making decisions about cost benefit? Are they going to be uniform across ministries?

We're talking about health matters. We're talking about requirements that could have something to do with communicable disease or certainly an ability to perform tasks. How's that being done? It's just thrown in here, "cost benefit." There has to be, I hope, some real professional manner in which this is being accomplished with real professionals making the decisions.

I really think this committee needs to have some answer to that. That is a very important matter that's under discussion. I think the general public, if we're talking about quality of care and quality of provision of services, has to know that's being done properly. Okay, it's great not to have to do something, but if it was a very important decision and requirement, particularly in reference to children and care of children, I think we have to be sure that the decisions are being made on some basis.

Mr Wessinger: Yes, there definitely will be criteria established for determining. It will be determining

whether it serves any useful purpose from a medical point of view. The requirement will be reviewed, first of all, as to the current medical necessity under current medical practice and whether it's the necessity of the services to achieve the purpose of the statute or regulation, consideration of alternatives to achieve the same purpose without making it a legal requirement and the cost benefit of maintaining the requirement. Those are the basic criteria.

Mrs O'Neill: I hope there'll be some auditors involved in that as well as the doctors. Could we have what you have just read?

Mr Wessinger: This will be an internal ministry review, not a review, I think, by the medical profession as I understand it.

Mrs O'Neill: You'll likely have some questions about that from some people. I think that's all for now.

The Chair: It is, in the immortal words, almost 6 of the clock. I know there are more questions on this particular amendment and I'm just wondering whether this is perhaps an appropriate time to recess. I suspect not, because I see a hand up. Mrs Sullivan.

Mrs Sullivan: I think it would be helpful, rather than just the little document that summarizes the regs, it would be far more useful for people on the committee if they actually received full, integrated regulations as they now exist. Section 24 of regulation 552 delineates thoroughly and without editorial comment what's covered, what's not covered and what was added in the dead of the night on December 17 last year and came into effect on January 1, 1993. If the ministry doesn't have that list, I do.

The Chair: In that instance then, parliamentary assistant, are you—

Mr Wessinger: I'm not quite clear exactly what is requested.

The Chair: Mrs Sullivan, the parliamentary assistant is not quite clear on what it is you've requested.

Mrs Sullivan: I would like to see the entire printed regulation, section 24 of regulation 552, Revised Regulations of Ontario, 1990. Okay?

Mr Wessinger: I think it's in your binder. That's what I'm advised.

Mrs Sullivan: I think that some members did not receive it, and frankly it makes it a lot easier to follow the entire issue if everyone has it.

The Chair: Which tab was it just so members can check their own books? Do you know which tab it was?

Mr Williams: It's tab 3 in my binder. I'm not sure it's all the same. It's tab 3.

Mrs Sullivan: Tab C. No, that's not the full, integrated regs, tab C. That just includes the regulations, I think.

Mr Williams: Not section 24. It's got the amendment to section 24, which is 785/92.

Mrs Sullivan: Does it include all of the updates?

Mr Williams: Yes. What you see is the form that we have it in the ministry. There's no difference. There is no consolidated regulation after 1990.

Mrs Sullivan: Yes, there is; I've got it right here.

The Chair: Mrs Sullivan, perhaps what we could do when we break, if you could show what you have which is different, we could sort that out prior to tomorrow's sitting.

Mrs Sullivan: Far easier to follow.

The Chair: If we could do that, then the committee will stand adjourned until 3:30 tomorrow.

The committee adjourned at 1804.

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- ***Chair / Président:** Beer, Charles (York North/-Nord L)
 Vice-Chair / Vice-Président: Eddy, Ron (Brant-Haldimand L)
 Carter, Jenny (Peterborough ND)
*Cunningham, Dianne (London North/-Nord PC)
*Hope, Randy R. (Chatham-Kent ND)
*Martin, Tony (Sault Ste Marie ND)
 McGuinty, Dalton (Ottawa South/-Sud L)
*O'Connor, Larry (Durham-York ND)
*O'Neill, Yvonne (Ottawa-Rideau L)
 Owens, Stephen (Scarborough Centre ND)
*Rizzo, Tony (Oakwood ND)
 Wilson, Jim (Simcoe West/-Ouest PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Ramsay, David (Timiskaming L) for Mr Eddy
Sullivan, Barbara (Halton Centre L) for Mr McGuinty
Sutherland, Kimble (Oxford ND) for Mr Owens
Wessenger, Paul (Simcoe Centre ND) for Ms Carter

Also taking part / Autres participants et participantes:

Ministry of Health:

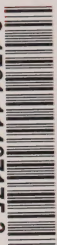
 Wessenger, Paul, parliamentary assistant to the minister
 Williams, Frank, deputy director, legal services
 LeBlanc, Dr Eugene, executive director, negotiations secretariat, health strategies group

Clerk / Greffier: Arnott, Doug

Staff / Personnel: Schuh, Cornelia, deputy chief, Legislative Counsel Services

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